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99TH CONGRESS
2d Session
SENATE
REPORT
99–444

OMNIBUS VETERANS' BENEFITS IMPROVEMENT AND HEALTH CARE AUTHORIZATION ACT OF 1986

REPORT

OF THE

COMMITTEE ON VETERANS' AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 2422

SEPTEMBER 16 (legislative day, SEPTEMBER 15), 1986.—Ordered to be printed

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OMNIBUS VETERANS' BENEFITS IMPROVEMENT AND HEALTH CARE AUTHORIZATION ACT OF 1986

SEPTEMBER 16 (legislative day, SEPTEMBER 15), 1986.—Ordered to be printed

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Mr. MURKOWSKI, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany S. 2422]

The Committee on Veterans' Affairs, to which was referred the bill (S. 2422) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to improve the Veterans' Administration home loan guaranty program; to authorize certain debt collections; to authorize the Administrator of Veterans' Affairs to require additional information from certain fiduciary agents of veterans; to revise the authority of the Administrator of Veterans' Affairs to construct, alter, acquire, operate, and maintain parking facilities at Veterans' Administration medical facilities; and to authorize an administrative reorganization in the Veterans' Administration, having considered the same, reports favorably thereon with an amendment in the nature of a committee substitute, and recommends that the bill, as amended, do pass.

COMMITTEE AMENDMENTS

The amendments are as follows:

Strike out all after the enacting clause as follows:

[SECTION 1. SHORT TITLE AND REFERENCES

[(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation and Benefits Improvements Act of 1986".

[(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

[TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

[SEC. 101. DISABILITY COMPENSATION

[(a) IN GENERAL.—Section 314 is amended—

[(1) by striking out "$68" in subsection (a) and inserting in lieu thereof "$70";

[(2) by striking out "$126" in subsection (b) and inserting in lieu thereof "$130";

[(3) by striking out "$191" in subsection (c) and inserting in lieu thereof "$197";

[(4) by striking out "$274" in subsection (d) and inserting in lieu thereof "$283";

[(5) by striking out "$388" in subsection (e) and inserting in lieu thereof "$401";

[(6) by striking out "$489" in subsection (f) and inserting in lieu thereof "$506";

[(7) by striking out "$617" in subsection (g) and inserting in lieu thereof "$638";

[(8) by striking out "$713" in subsection (h) and inserting in lieu thereof "$737";

[(9) by striking out "$803" in subsection (i) and inserting in lieu thereof "$830";

[(10) by striking out "$1,335" in subsection (j) and inserting in lieu thereof "$1,380";

[(11) by striking out "$1,659" and "$2,325" in subsection (k) and inserting in lieu thereof "$1,715" and "$2,404", respectively;

[(12) by striking out "$1,659" in subsection (l) and inserting in lieu thereof "$1,715";

[(13) by striking out "$1,829" in subsection (m) and inserting in lieu thereof "$1,891";

[(14) by striking out "$2,080" in subsection (n) and inserting in lieu thereof "$2,151";

[(15) by striking out "$2,325" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,404";

[(16) by striking out "$998" and "$1,487" in subsection (r) and inserting in lieu thereof "$1,032" and "$1,538", respectively;

[(17) by striking out "$1,494" in subsection (s) and inserting in lieu thereof "$1,545"; and

[(18) by striking out "$289" in subsection (t) and inserting in lieu thereof "$299".

[(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

[SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS

[Section 315(1) is amended—

[(1) by striking out "$81" in clause (A) and inserting in lieu thereof "$84";

[(2) by striking out "$136" and "$43" in clause (B) and inserting in lieu thereof "$141" and "$44", repectively;

[(3) by striking out "$56" and "$43" in clause (C) and inserting in lieu thereof "$58" and "$44", respectively;

[(4) by striking out "$66" in clause (D) and inserting in lieu thereof "$68";

[(5) by striking out "$147" in clause (E) and inserting in lieu thereof "$152"; and

[(6) by striking out "$124" in clause (F) and inserting in lieu thereof "$128".

[SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

[Section 362 is amended by striking out "$360" and inserting in lieu thereof "$372".

[SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

[Section 411 is amended—

[(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

[“Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$508	W-4	$727
E-2	522	O-1	642
E-3	536	O-2	662
E-4	571	O-3	709
E-5	585	O-4	750
E-6	598	O-5	826
E-7	628	O-6	931
E-8	662	O-7	1,006
E-9	[1]692	O-8	1,103
W-1	642	O-9	1,184
W-2	667	O-10	[2]1,298
W-3	687		

“[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $747.

“[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,391.”;

[(2) by striking out “$57” in subsection (b) and inserting in lieu thereof “$59”;

[(3) by striking out “$147” in subsection (c) and inserting in lieu thereof “$152”;

[(4) by striking out “$72” in subsection (d) and inserting in lieu thereof “$74”.

[SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

[Section 413 is amended—

[(1) by striking out “$247” in cluase (1) and inserting in lieu thereof “$255”;

[(2) by striking out “$356” in clause (2) and inserting in lieu thereof “$368”;

[(3) by striking out “$460” in clause (3) and inserting in lieu thereof “$476”; and

[(4) by striking out “$460” and “$93” in clause (4) and inserting in lieu thereof “$476” and “$96“, respectively.

[SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

[Section 414 is amended—

[(1) by striking out “$147” in subsection (a) and inserting in lieu thereof “$152”;

[(2) by striking out “$247” in subsection (b) and inserting in lieu thereof “$255”;

[(3) by striking out “$126” in subsection (c) and inserting in lieu thereof “$130”;

[SEC. 107. EFFECTIVE DATE

[Except as provided in section 108 of this Act, the amendments made by sections 101 through 106 of this Act shall take effect on December 1, 1986.

[SEC. 108. ALTERNATIVE RATE INCREASES

[(a) In General.—(1) If the percentage of the increase in benefit amounts under title II of the Social Security Act that will take effect on December 1, 1986, as a result of a determination under section 215(i) of such Act or as a result of any other law is not 3.4 percent—

[(A) sections 101 through 106 of this Act shall not take effect; and

[(B) the Administrator of Veterans' Affairs shall (i) compute alternative increased rates and limitations that are equal to those that would be arrived at by increasing, by the same percentage as the percentage by which such benefit amounts will thus be increased, each dollar amount that would have been increased by the amendments that would been made by such sections, and (ii) effective December 1, 1986, pay benefits chapters 11 and 13 of title 38, United States Code, in accordance with such alternative increased rates and limitations.

[(2) In the computation of alternative increased rates and limitations pursuant to paragraph (1)(B), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

[(b) SPECIAL RULE.—The Administrator may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of the Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

[(c) PUBLICATION REQUIREMENT.—If, under subsection (a) of this section, the Administrator is required to compute alternative increased rates and limitations, the Administrator shall publish in the Federal Register such alternative increased rates and limitations and the rates and limitations being increased. The Administrator shall publish such matters at the same time as the matters required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are published by reason of a determination under section 215(i) of such Act.

[TITLE II—IMPROVEMENT IN THE ADMINISTRATION OF THE VETERANS' HOME LOAN GUARANTY PROGRAM

[SEC. 201. VETERANS' ADMINISTRATION ACQUISITION OF FORECLOSED PROPERTY

[Section 1816(c) is amended—

[(1) by striking out "In" in paragraph (5) and inserting in lieu thereof "Except as provided in paragraph (10) of this subsection, in";

[(2) by striking out "In" in paragraph (7) and inserting in lieu thereof "Except as provided in paragraph (10) of this subsection, in"; and

[(3) by adding at the end thereof the following new paragraph:

["(10)(A) The holder of a defaulted loan shall not have the option of conveying the property securing the loan to the United States under paragraph (5) of this subsection and the Administrator may not except conveyance of such property under paragraph (7) of this subsection unless the Admininistrator determines, on the basis of the considerations prescribed in subparagraph (B) of this paragraph, that the Administrator is likely to be able, within one year after the date of the liquidation sale of the property, to sell the property for a price which would make it economically advantageous to the United States for the Administrator to acquire and dispose of the property.

["(B) In making a determination with respect to a particular property for the purpose of subparagraph (A) of this paragraph, the Administrator shall consider—

["(i) the size of the inventory of properties held by the Veterans' Administration (after acquisition under this section) which are located in the same general real estale market area as such property;

["(ii) The current and projected conditions of the real estate market in such area; and

["(iii) the current and projected general economic conditions in such area.".

[TITLE III—IMPROVEMENTS IN OTHER VETERANS' PROGRAMS

[SEC. 301. ADMINISTRATIVE DEBT COLLECTION BY OFFSET OF BENEFITS

[Section 3101 is amended—

[(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

[(2) by inserting after subsection (b) the following new subsection (c):

["(c)(1) Notwithstanding any other provision of this section, the Administrator, may, after receiving a request under paragraph (2) of this subsection relating to a veteran, collect by offset of any compensation or pension payable to the veteran under laws administered by the Veterans' Administration the uncollected portion of (A) the amount of any overpayments of retired or retainer pay (for service in a uniformed service named in section 101(3) of title 37) made to the veteran, and (B) the amount of any indebtedness associated with the veteran's participation in a plan prescribed in subchapter I or II of chapter 73 of tile 10.

["(2) If the Secretary concerned (as defined in section 101(5) of title 37) has tried under section 3711(a) of title 31 to collect an amount described in paragraph (1) of this subsection in the case of any veteran, has been unable to collect such amount, and has determined that the uncollected portion of such amount is not collectible from amounts payable by the Secretary to the veteran or that the veteran is not receiving any payment from the Secretary, the Secretary may request the Administrator to make collections in the case of such veteran as authorized in paragraph (1) of this subsection.

[“(3)(A) A collection authorized by paragraph (1) of this subsection shall be conducted in accordance with the procedures prescribed in section 3716 of title 31 for administrative offset collections made after attempts to collect claims under section 3711(a) of such title.

[“(B) For the purpose of subparagraph (A) of this paragraph, as used in the second sentence of section 3716(a) of title 31—

[“(i) the term ‘records of the agency’ shall be considered to refer to the records of the department of the Secretary concerned; and

[“(ii) the term ‘agency’ in clauses (3) and (4) shall be considered to refer to such department.”.

[SEC. 302. DISCLOSURE OF FINANCIAL INFORMATION BY FEDERAL FIDUCIARIES

[The second sentence of section 3202(b) is amended by striking out “beneficiary,” and inserting in lieu thereof “beneficiary and any additional information about the beneficiary’s financial circumstances required by the Administrator (unless unknown by the fiduciary),”.

[SEC. 303. CONSTRUCTION, ALTERATION, AND ACQUISITION OF PARKING FACILITIES AT VETERANS’ ADMINISTRATION MEDICAL FACILITIES

[(a) IN GENERAL.—Section 5009 of title 38, United States Code, is amended to read as follows:

[“§ 5009. Parking facilities

[“(a) For the purposes of this section—

[“(1) the term ‘garage’ means a structure (or part of a structure) in which vehicles may be parked; and

[“(2) the term ‘parking facility’ includes a surface parking lot and a garage.

[“(b) In order to accommodate the vehicles of employees of medical facilities, vehicles used to transport veterans to or from such facilities for the purpose of examination or treatment, and the vehicles of visitors and other individuals having business at such facilities, the Administrator—

[“(1) may construct or alter parking facilities on reservations of medical facilities, and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Administrator considers necessary for use as the site for any such construction or alteration;

[“(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility that the Administrator considers necessary for use as a parking facility (including the site for a parking facility); and

[“(3) may operate and maintain parking facilities.

[“(c)(1) Except as provided in paragraph (2) of this subsection, each employee, visitor, and other individual having business at a medical facility for which parking fees have been established under subsection (d) or (e) of this section shall be charged the applicable parking fee for the use of a parking facility at such medical facility.

[“(2) A parking fee shall not be charged under this subsection for the accommodation of any vehicle used to transport a veteran to or from any medical facility for the purpose of examination or treatment.

[“(3) The Administrator shall collect (or provide for the collection of) parking fees charged under this subsection.

[“(d)(1) For each medical facility where—

[“(A) a garage constructed or acquired at a cost exceeding $500,000 is first opened for use after September 30, 1986; or

[“(B) a project for the alteration of a garage at a cost exceeding $500,000 is completed after September 30, 1986,

the Administrator shall prescribe a schedule of parking fees to be charged at all parking facilities used in connection with such medical facility.

[“(2) The parking fee schedule prescribed for a medical center referred to in paragraph (1) of this subsection shall be designed to establish fees which the Administrator determines are reasonable under the circumstances and will provide sufficient revenues to recover the costs of operating and maintaining all parking facilities at such medical facility.

[“(e) The Administrator may prescribe a schedule of parking fees for the parking facilities at any medical facility not referred to in subsection (d) of this section. Any such schedule shall be designed to establish fees which the Administrator determines to be reasonable under the circumstances. The Administrator may consider the costs of operating and maintaining such parking facilities in prescribing any such fee schedule.

[“(f) The Administrator may contract, by lease or otherwise, with persons firms, or corporations for the operation of parking facilities at medical facilities under such terms and conditions as the Administrator shall prescribe and without regard to laws requiring full and open competition.

["(g) Subject to subsections (h) and (i) of this section, there are authorized to be appropriated such amounts as are necessary to finance (in whole or in part)—

["(1) the construction, alteration, and acquisition (including site acquisition) of parking facilities; and

["(2) the operation and maintenance of parking facilities.

["(h)(1) Amounts appropriated pursuant to subsection (g) of this section and parking fees collected under subsection (c) of this section shall be administered as a revolving fund and shall be available without fiscal year limitation to carry out this section.

["(2)(A) Except as provided in subparagraph (B) of this paragraph, the revolving fund shall be deposited in a checking account with the Treasurer of the United States.

["(B) The Administrator may deposit in depositories selected by the Administrator such amounts as the Administrator determines necessary to establish and maintain accounts for the purposes of the operation and maintenance of parking facilities.

["(3) No funds other than funds from the revolving fund may be used for the construction, alteration, or aquisition (including site acquisition) of a parking facility at a medical facility after September 30, 1986.

["(i)(1) The expenditure of funds from the revolving fund for the construction, alteration, acquisition (including site acquisition), operation, and maintenance of parking facilities may be made only as provided for in appropriation Act.

["(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund (including any funds proposed in such bill, resolution, or amendment to be appropriated to the revolving fund) may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a parking facility or facilities at a medical facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.".

["(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 5009 and inserting in lieu thereof the following:

["5009. Parking facilities.".

["SEC. 304. WAIVER OF CONGRESSIONAL NOTICE AND WAITING PERIOD FOR ADMINISTRATIVE REORGANIZATION OF CERTAIN VETERANS' ADMINISTRATION ACTIVITIES

[(a) WAIVER.—The Administrator of Veterans' Affairs may undertake the administrative reorganization described in subsection (b) without regard to the requirements of section 210(b)(2) of title 38, United States Code.

[(b) COVERED ADMINISTRATIVE REORGANIZATION.— The administrative reorganization referred to in subsection (a) is a reorganization that—

[(1) involves the transfer of certain functions from the Office of Administration of the Veterans' Administration to the Department of Veterans' Benefits and to the Office of the Associate Deputy Administrator of Veterans' Affairs for Public and Consumer Affairs; and

[(2) is described in letters dated February 5, 1986, that were submitted by the acting Administrator of Veterans' Affairs to the President of the Senate and the Speaker of the House of Representatives.]

and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Veterans' Benefits Improvement and Health Care Authorization Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND OTHER BENEFIT PROGRAMS

PART A—BENEFITS

Sec. 101. Disability compensation and dependency and indemnity compensation rate increases.
Sec. 102. Presumptions relating to certain diseases and disabilities of former prisoners of war.
Sec. 103. Extension of pilot program of independent living services and assistance.
Sec. 104. Extension of veterans readjustment appointments authority.

Part B—Benefit Program Administration

Sec. 111. Veterans' Administration acquisition of foreclosed properties.
Sec. 112. Bar to duplication of educational assistance benefits.
Sec. 113. Membership of the Administrator's Advisory Committee on Education.
Sec. 114. Disclosure of financial information by fiduciaries.
Sec. 115. Waiver of congressional notice and waiting period for administrative reorganization of certain Veterans' Administration activities.
Sec. 116. Administrative debt collection by offset of benefits.

TITLE II—HEALTH CARE

Part A—Health-Care Programs

Sec. 201. Definition of home health services.
Sec. 202. Treatment and rehabilitation for chronically mentally ill veterans.
Sec. 203. Respite care pilot program.
Sec. 204. Pilot program of noninstitutional alternatives to institutional care.
Sec. 205. Services to overcome service-connected disability affecting procreation.
Sec. 206. Continuation of certain counseling services for a deceased veteran's family members.
Sec. 207. Eligibility for domiciliary care.
Sec. 208. Contracts and grants for medical care for United States veterans in the Republic of the Philippines.
Sec. 209. Medicaid treatment of per diem payments to State veterans' homes.

Part B—Health-Care Administration

Sec. 211. Enforcement of State and local traffic laws by Veterans' Administration police officers.
Sec. 212. Ionizing radiation registry.
Sec. 213. Authority to waive licensure and internship requirements for research psychologists.
Sec. 214. Requirement for medicare hospitals to participate in Veterans' Administration contract health-care program.
Sec. 215. Organization of the Department of Medicine and Surgery.

Part C—Medical Facility Construction and Planning

Sec. 221. Parking facilities.
Sec. 222. Consideration of sharing Department of Defense facilities.
Sec. 223. State home grants.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Modifications of certain reporting requirements.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND OTHER BENEFIT PROGRAMS

Part A—Benefits

SEC. 101. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

(a) In General.—(1) The Administrator of Veterans' Affairs shall provide for increases in the rates of and limitations on Veterans' Administration disability compensation and dependency and indemnity compensation in accordance with this subsection.

(2)(A) In the case of each of the rates and limitations in sections 314, 315(1), 362, 411, 413, and 414 of title 38, United States Code, as increased by sections 101(a), 102, 103, 104, 105, and 106 of the Veterans' Compensation Rate Increase and Job Training Amendments of 1985 (Public Law 99-238), the Administrator shall further increase such rates and limitations by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1986, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to paragraph (1), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) Special Rule.—The Administrator may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons—

(1) to whom the provisions of section 10 of the Act entitled "An Act to consolidate into one Act all of the laws administered by the Veterans' Administration, and for other purposes.", approved September 2, 1958 (Public Law 85-857; 72 Stat. 1263) are applicable; and

(2) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are published by reason of a determination made under section 215(i) of such Act during fiscal year 1987, the Administrator shall publish in the Federal Register the rates and limitations being increased under this section and the rates and limitations as so increased.

(d) EFFECTIVE DATE.—The provisions of this section shall take effect on December 1, 1986.

SEC. 102. PRESUMPTIONS RELATING TO CERTAIN DISEASES AND DISABILITIES OF FORMER PRISONERS OF WAR

Section 312(b) is amended—

(1) by striking out "or" at the end of clause (9);

(2) by inserting "or" at the end of clause 10; and

(3) by inserting after clause (10) the following new clause:

"(11) organic residuals of frostbite, if the Administrator determines that the veteran was interned in climatic conditions consistent with the occurrence of frostbite,".

SEC. 103. EXTENSION OF PILOT PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE

(a) EXTENSION OF AUTHORITY AND CLARIFYING AMENDMENT.—(1) Section 1520(a) is amended—

(A) in paragraphs (1), (5), and (6), by striking out "1985" each place it appears and inserting in lieu thereof "1989"; and

(B) in paragraph (2), by inserting "currently" after "goal".

(b) CONFORMING AMENDMENTS.—(1) Paragraphs (6)(B) and (9)(A)(i) of section 1501 are amended by inserting "currently" after "be".

(2) Section 1503(d) is amended by inserting "currently" after "goal".

(3) Section 1505 is amended—

(A) in subsection (a), by inserting "currently" after "whether it";

(B) in subsection (b), by inserting "current" after "of the"; and

(C) in subsection (d), by inserting "currently" after "goal".

(4) Section 1506 is amended—

(A) in subsection (a)(2)(B), by inserting "currently" after "goal";

(B) in subsection (b), by inserting "currently" after "goal";

(C) in subsection (c), by inserting "currently" after "goal" the first place it appears; and

(D) in subsection (d)—

(i) in the first sentence, by inserting "currently" after "verteran"; and

(ii) in the third sentence, by inserting "currently" after "goal" and after "achievement" the second place it appears.

(5) Section 1509 is amended by inserting "currently" after "veteran" the first place it appears.

(c) REPORT.—Section 1520 is amended by striking out subsection (b) and inserting in lieu thereof the following new subsection:

"(b) Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives statistical data regrading veterans' participation in the pilot program conducted under subsection (a) of this section during fiscal years 1987 and 1988 and any recommendations of the Administrator for administrative or legislative action or both regarding the program.".

SEC. 104. EXTENSION OF VETERANS READJUSTMENT APPOINTMENTS AUTHORITY

Section 2014(b)(2) is amended by striking out "1986" and inserting in lieu thereof "1988".

PART B—BENEFIT PROGRAM ADMINISTRATION

SEC. 111. VETERANS' ADMINISTRATION ACQUISITION OF FORECLOSED PROPERTIES

Section 1816(c) is amended—

(1) In paragraph (5), by striking out "In" and inserting in lieu thereof "Except as provided in paragraph (10) of this section, in";

(2) In paragraph (7), by striking out "In" and inserting in lieu therof "Except as provided in paragraph (10) of this subsection, in"; and

(3) by adding at the end the following new paragraph:

"(10)(A) The holder of a defaulted loan shall not have the option of conveying the property securing the loan to the United States under paragraph (5) of this subsection and the Administrator may not accept conveyance of such property under para-

graph (7) of this subsection unless the Administrator determines, on the basis of the considerations specified in subparagraph (B) of this paragraph, that the Administrator is likely to be able, within 1 year after the date of the liquidation sale of the property, to sell the property for a price which would make it economically advantageous to the United States for the Administrator to acquire and dispose of the property.

"(B) In making a determination with respect to a particular property for the purpose of subparagraph (A) of this paragraph, the Administrator shall consider—

"(i) the size of the inventory of the properties held by the Veterans' Administration (after acquisition under this section) which are located in the same general real estate market area as such property;

"(ii) the current and projected conditions of the real estate market in such area; and

"(iii) the current and projected general economic conditions in such area.".

SEC 112. BAR TO DUPLICATION OF EDUCATIONAL ASSISTANCE BENEFITS

Section 1433(a)(1) is amended by striking out "chapter 31" and all that follows through "both programs" and inserting in lieu thereof "chapter 31, 32, or 35 of this title, under chapter 106 or 107 of title 10, or under the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more of such programs".

SEC. 113. MEMBERSHIP OF THE ADMINISTRATOR'S ADVISORY COMMITTEE ON EDUCATION

Section 1792(a) is amended by striking out "World War II, the Korean conflict era,".

SEC. 114. DISCLOSURE OF FINANCIAL INFORMATION BY FIDUCIARIES

The second sentence of section 3202(b) is amended by striking out "beneficiary," and inserting in lieu thereof "beneficiary and any additional information about the beneficiary's financial circumstances required by the Administrator (unless unknown by the fiduciary),".

SEC. 115. WAIVER OF CONGRESSIONAL NOTICE AND WAITING PERIOD FOR ADMINISTRATIVE REORGANIZATION OF CERTAIN VETERANS' ADMINISTRATION ACTIVITIES

(a) Waiver. —The Administrator of Veterans' Affairs may undertake the administrative reorganization described in subsection (b) without regard to the requirements of section 210(b)(2) of title 38, United States Code.

(b) Covered Administrative Reorganization.—The administrative reorganization referred to in subsection (a) is a reorganization that—

(1) involves the transfer of certain functions from the Office of Administration of the Veterans' Administration to the Department of Veterans' Benefits and to the Office of the Associate Deputy Administrator of Veterans' Affairs for Public and Consumer Affairs; and

(2) is described in letters dated February 5, 1986, that were submitted by the Acting Administrator of Veterans' Affairs to the President of the Senate and the Speaker of the House of Representatives.

SEC. 116. ADMINISTRATIVE DEBT COLLECTION BY OFFSET OF BENEFITS

Section 3101 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Notwithstanding any other provisions of this section, the Administrator may, after receiving a request under paragraph (2) of this subsection relating to a veteran, collect by offset of any compensation or pension payable to the veteran under laws administered by the Veterans' Administration the uncollected portion of (A) the amount of any overpayments of retired or retainer pay (for service in a uniformed service named in section 101(3) of title 37) made to the veteran, and (B) the amount of any indebtedness associated with the veteran's participation in a plan prescribed in subchapter I or II of chapter 73 of title 10.

"(2) If the Secretary concerned (as defined in section 101(5) of title 37) has tried under section 3711(a) of title 31 to collect an amount described in paragraph (1) of this subsection in the case of any veteran, has been unable to collect such amount. and has determined that the uncollected portion of such amount is not collectible from amounts payable by the Secretary to the veteran or that the veteran is not receiving any payment from the Secretary, the Secretary may request the Administrator to make collections in the case of such veteran as authorized in paragraph (1) of this subsection.

"(3)(A) A collection authorized by paragraph (1) of this subsection shall be conducted in accordance with the procedures prescribed in section 3716 of title 31 for administrative offset collections made after attempts to collect claims under section 3711(a) of such title.

"(B) For the purpose of subparagraph (A) of this paragraph, as used in the second sentence of section 3716(a) of title 31—

"(i) the term 'records of the agency' shall be considered to refer to the records of the department of the Secretary concerned; and

"(ii) the term 'agency' in clauses (3) and (4) shall be considered to refer to such department.

"(4) Funds collected under this subsection shall be credited to the Department of Defense military retirement fund.".

TITLE II—HEALTH CARE

PART A—HEALTH-CARE PROGRAMS

SEC. 201. DEFINITION OF HOME HEALTH SERVICES

(a) Section 601 is amended by adding at the end of following new paragraph:

"(10) The term 'home health services', in the case of services furnished to a veteran in other than a Veterans' Administration facility or the veteran's home, includes services furnished to a veteran in any setting in which the veteran is residing at the time such services are furnished but does not include any structural improvements or alterations.".

(b) As provided in sections 601(6) and (as added by subsection (a)) 601(10), 603, and 612 of title 38, United States Code, when Veterans' Administration facilities are not capable of furnishing economical home health services because of geographical inaccessibility or are not capable of furnishing the home health services required for a veteran, the Administrator of Veterans' Affairs may contract with non-Veterans' Administration facilities in order to furnish such home health services.

SEC. 202. TREATMENT AND REHABILITATION FOR CHRONICALLY MENTALLY ILL VETERANS

(a) AUTHORITY TO CONTRACT FOR COMMUNITY-BASED PSYCHIATRIC RESIDENTIAL TREATMENT.—Subchapter II of chapter 17 is amended by adding at the end the following new section:

"§ 620B. Community-based psychiatric residential treatment for chronically mentally ill veterans

"(a) For the purposes of this section—

"(1) The term 'case management' includes the coordination and facilitation of all services furnished to a veteran by the Veterans' Administration, either directly or through a contract, including, but not limited to, screening, assessment of needs, planning, referral (including referral for services to be furnished by either the Veterans' Administration or another entity), monitoring, reassessment, and followup.

"(2) The term 'contract facility' means any facility which has been awarded a contract under subsection (b)(1) of this section.

"(3) The term 'eligible veteran' means a veteran who, at the time of referral to a contract facility—

"(i) is being furnished hospital, domiciliary, or nursing home care by the Administrator for a chronic mental illness disability, or

"(ii) is a veteran described in section 612(a)(1)(B) of this title who has a chronic mental illness disability.

"(b)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from chronic mental illness disabilities.

"(2) Before furnishing such care and services to any veteran through a contract facility, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

"(c) In the case of each eligible veteran provided care and services under this section, the Administrator shall designate a Veterans' Administration health-care employee to provide case management services.

"(d) In furnishing care and services under this section, the Administrator shall accord priority for such care and services in the following order:

"(1) To any veteran for a service-connected chronic mental illness disability.

"(2) To any veteran with a disability rated as service-connected.

"(3) To any veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

"(e) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a contract facility under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

"(f) Not later than 3 years after the date of the enactment of the Omnibus Veterans' Benefits Improvement and Health Care Authorization Act of 1986, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience under this section. The report shall include the Administrator's evaluation and findings regarding—

"(1) the quality of care furnished to participating veterans through contract facilities;

"(2) any health advantages that may result from furnishing such care and services to such veterans in such contract facilities rather than in inpatient facilities over which the Administrator has direct jurisdiction;

"(3) the effectiveness of the use of contract facilities under this section in enabling the participating veterans to live outside of Veterans' Administration inpatient facilities and to achieve independence in living and functioning in their communities;

"(4) the cost-effectiveness of furnishing such care through contract facilities under this section, including the effect on the average daily census in Veterans' Administration hospital, nursing home, and domiciliary facilities participating in the program (taking into account whether the beds previously occupied by the participating veterans were subsequently occupied by other eligible veterans or remained unoccupied) and the effect on the numbers of Veterans' Administration staff employed at such facilities; and

"(5) any plans for administrative action, and any recommendations for legislation, that the Administration considers appropriate to include in such report.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 620A the following new item:

"620B. Community-based psychiatric residential treatment for chronically mentally ill veterans.".

SEC. 203. RESPITE CARE PILOT PROGRAM

(a) AUTHORITY FOR PILOT PROGRAM.—(1) Subchapter II of chapter 17 is further amended by adding at the end the following new section:

"§ 620C. Respite care; pilot program

"(a) During the period beginning on October 1, 1986, and ending on September 30, 1990, the Administrator may conduct a pilot program to furnish respite care services, and to evaluate the furnishing of such services, to any veteran who has a service-connected disability which is compensable in degree and who is receiving services under this chapter.

"(b) For the purposes of this section, the term 'respite care' means hospital or nursing home care which (1) is of limited duration, (2) is furnished in a Veterans' Administration facility on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home, (3) is furnished for the purpose of helping the veteran to continue residing primarily at home, and (4) does not (as determined by the head of the facility furnishing the care) adversely affect the range of services, the quality of care, or the established priorities for care furnished to other veterans seeking care at such facility.".

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 620B (as added by section 202 of this Act) the following new item:

"620C. Respite care; pilot program.".

(b) REPORT ON EXPERIENCE UNDER PILOT PROGRAM.—If the Administrator of Veterans' Affairs furnishes respite care under section 620C of title 38, United States Code (as added by subsection (a))—

(1) the Administator shall conduct an evaluation of the health efficacy and cost-effectiveness of furnishing such care; and

(2) not later than February 1, 1990, shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(A) the results of any such evaluation; and

(B) any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in the report.

SEC. 204. PILOT PROGRAM OF NONINSTITUTIONAL ALTERNATIVES TO INSTITUTIONAL CARE

(a) ESTABLISHMENT OF PILOT PROGRAM.—Subchapter II of chapter 17 is further amended by adding at the end the following new section:

"§ 620D. Noninstitutional alternatives to institutional care; pilot program

"(a)(1) The Administrator, during the period beginning January 1, 1987, and ending December 31, 1990, and subject to subsection (c) of this section, shall conduct a pilot program under which veterans eligible under this chapter for and otherwise in need of hospital, nursing home, or domiciliary care will be furnished medical, rehabilitative, and health-related services in noninstitutional settings at not less than five nor more than ten demonstration project sites.

"(2) In selecting veterans for participation in the program, the Administrator shall accord priority to veterans who have service-connected disabilities, to veterans who are 65 years of age or older, to veterans who are totally and permanently disabled, to veterans who, by reason of blindness in both eyes, have only light perception or are in need of regular aid and attendance, and to veterans who are suffering from Alzheimer's disease or other forms of dementia.

"(b)(1) In the conduct of the program, the Administrator shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) in the case of each veteran furnished services under the program, appoint a Veterans' Administration health-care employee to furnish case management services (as defined in section 620B(a)(1) of this title).

"(2) In order to evaluate the cost-effectiveness of utilizing certain health services of agencies other than the Veterans' Administration in cases in which no Veterans' Administration facility in the vicinty of a demonstration project provides such services, the Administrator, in not more than two of the demonstration projects, may utilize appropriate health services of appropriate public and private agencies that furnish such services.

"(3) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility furnishing services to veterans under paragraph (1)(A) of this subsection. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the facility concerned. The Administrator may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

"(c) The total cost of conducting the pilot program under this section shall not exceed 60 percent of the cost that would have been incurred by the Veterans' Administration during the period of the pilot program if the veterans being furnished services under the pilot program had been furnished, instead, nursing home care under section 610 of this title. In any fiscal year, the cost of carrying out the pilot program shall not exceed 65 percent of the cost that would have been so incurred for such year under such section 610.

"(d) Not later than April 1, 1990, the Administrator shall submit to the Committee on Veterans' Affairs of the Senate and the House of Representatives a report setting forth the Administrator's evaluation, findings, and conclusions regarding the pilot program, and its results for the participating veterans, during its first 36 months. The report shall include a description of the conduct of the program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations, for legislation that the Administrator considers appropriate to include in the report.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 620C (as added by section 203 of this Act) the following new item:

"620D. Noninstitutional alternatives to institutional care; pilot program.".

SEC. 205. SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITY AFFECTING PROCREATION

"(a) IN GENERAL.—Clause (A) of section 601(6) is amended to read as follows:

"(A)(i) surgical services, (ii) (in the case of a veteran who applies for such services prior to October 1, 1989) services to achieve pregnancy in a veteran or a veteran's spouse where such services are necessary because of a service-connected disability which causes the veteran's inability to procreate, (iii) dental services and appliances as described in sections 610 and 612 of this title, (iv) optometric and podiatric services, (v) (in the case of a person otherwise receiving care of services under this chapter) preventive health-care services as defined in section 662 of this title, (vi) (except under the conditions described in section 612(f)(1)(A)(i) of this title) wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary, and (vii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and".

(b) REPORT.—Not later than February 1, 1989, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the experience under the authority in section 601(6)(A)(ii) of title 38, United States Code (as added by subsection (a)) prior to October 1, 1988, and any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in the report.

SEC. 206. CONTINUATION OF CERTAIN COUNSELING SERVICES FOR A DECEASED VETERAN'S FAMILY MEMBERS

Clause (B) of section 601(6) is amended to read as follows:

"(B)(i) such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment—

"(I) of the service—connected disability of a veteran pursuant to section 612(a) of this title, and

"(II) in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)(1)(A)(ii) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital,

for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, travel and incidental expenses of such family member or individual in the case of a veteran who is receiving care for a service-connected disability, or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title); and

"(ii) in the case of an individual who was a recipient of services under subclause (i) of this clause at the time of (I) the unexpected death of the veteran, or (II) the death of the veteran while the veteran was participating in a hospice program conducted by the Administrator, such counseling services, for a period of not to exceed 6 months, as the Administrator determines to be reasonable and necessary to assist such individual with the emotional and psychological stress accompanying the veteran's death.

For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.".

SEC. 207. ELIGIBILITY FOR DOMICILIARY CARE

(a) IN GENERAL.—Subsection (b) of section 610 is amended to read as follows:

"(b) The Administrator, through Veterans' Administration facilities, may furnish such domiciliary care as the Administrator determines is needed by a veteran for the purpose of receiving treatment or rehabilitation if the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that the veteran—

(1) has service-connected disability, or

(2) is incapacitated from earning a living and has no adequate means of support.".

(b) CONFORMING ADMENDMENT.—Section 622(g) is amended by striking out "sections 610(b)(2) and" and inserting in lieu thereof "section".

SEC. 208. CONTRACTS AND GRANTS FOR MEDICAL CARE FOR UNITED STATES VETERANS IN THE REPUBLIC OF THE PHILIPPINES

(a) EXTENSIONS OF AUTHORITIES; IMPROVEMENT OF GRANT AUTHORITY.—Section 632 is amended—

(1) in subsection (a), by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1989"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1989"; and

(B) by adding at the end the following new paragraph:

"(4)(A) Grants under this subsection for any fiscal year shall be made on a biannual basis, with no more than one-half of the amount of the grant being paid during the first half of such fiscal year and with no more than one-half of such amount being paid during the second half of such fiscal year.

"(B) No payment of such a grant may be made unless the Administrator has first submitted to the appropriate committees of the Congress a report setting forth the amount of the preceding biannual payment and a detailed accounting showing the uses made of such payment by the Veterans Memorial Medical Center.".

(b) EFFECTIVE DATES OF GRANT-AUTHORITY IMPROVEMENTS.—(1) Subparagraph (A) of paragraph (4) of section 632(b) of title 38, United States Code, as added by subsection (a)(2)(B), shall take effect on October 1, 1986.

(2) Subparagraph (B) of such paragraph, as so added, shall take effect on April 1, 1987.

SEC. 209. MEDICAID TREATMENT OF PER DIEM PAYMENTS TO STATE VETERANS' HOMES

Section 641 is amended by adding at the end thereof the following new subsection:

"(d) Payment made to States pursuant to this section—

"(1) shall not be considered to be a third-party liability for any purpose under section 1902(a)(25) of title XIX of the Social Security Act (42 U.S.C. 1396a(25)); and

"(2) shall, for purposes of determining under title XIX of the Social Security Act the reasonable costs of services provided by a State home, not be deducted directly or indirectly from the operating or other costs of such State home.".

PART B—HEALTH-CARE ADMINISTRATION

SEC. 211. ENFORCEMENT OF STATE AND LOCAL TRAFFIC LAWS BY VETERANS' ADMINISTRATION POLICE OFFICERS

Paragraph (1) of section 218(b) is amended to read as follows:

"(1) Veterans' Administration employees who are Veterans' Administration police offices shall enforce, with respect to acts occurring on Veterans' Administration property—

(A) Federal laws;

(B) the rules prescribed under subsection (a)(2)(A) of this section; and

(C) traffic and motor vehicle laws of a State or local government within the jurisdiction of which such Veterans' Administration property is located, pursuant to an express grant of authority under State or local law to enforce such laws, by issuing citations for violations thereof.

Subject to regulations prescribed under paragraph (2) of this subsection, a Veterans' Administration police officer may make an arrest on Veterans' Administration property for a violation of any Federal law or any such rule.".

SEC. 212. IONIZING RADIATION REGISTRY

(a) ESTABLISHMENT OF REGISTRY.—Not later than 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs, shall establish, and shall therafter maintain, a special record to be known as the "Ionizing Radiation Registry" (hereafter in this section referred to as the "Registry").

(b) CONTENT OF REGISTRY.—The Registry shall include the following information:

(1) Subject to subsection (c), a list containing the name of each veteran who was exposed to ionizing radiation under the conditions described in section 610(e)(1)(B) of title 38, United States Code, and—

(A) who has applied for hospital or nursing home care from the Veterans' Administration under such title; or

(B) who has filed a claim for compensation under chapter 11 of such title on the basis of a disability which may be associated with the exposure to ionizing radiation; or

(C) who has died and is survived by a spouse, child, or parent who has filed a claim for dependency and indemnity compensation under chapter 13 of such title; on the basis of the exposure of such veteran to ionizing radiation.

(2) Medical data relating to each veteran listed in the Registry under paragraph (1), including the veteran's medical history and health status recorded by the Veterans' Administration including the results of physical examinations by the Veterans' Administration, and a statement describing birth defects, if any, in the natural children of the veteran.

(3) Data on claims for the benefits referred to in paragraph (1), including decisions and determinations of the Veterans' Administration relating to such claims.

(4) An estimate of the dose of radiation to which each veteran listed in the Registry under paragraph (1) was exposed under the conditions described in section 610(e)(1)(B) of such title.

(c) NAMES NOT REQUIRED TO BE INCLUDED.—The Administrator is not required to include in the Registry the name of a veteran described in subsection (b)(1) if the request or claim referred to in subsection (b)(1) which relates to such veteran was filed before the date of the enactment of this Act and such veteran or the survivor filing the claim (in the case of a claim referred to in clause (C) of subsection (b)(1)), does not request the Veterans' Administration to include the veteran's name in the Registry.

(d) CONSOLIDATION OF EXISTING INFORMATION.—For the purpose of establishing and maintaining the Registry, the Administrator of Veterans' Affairs shall compile and consolidate relevant information maintained by the Department of Veterans' Benefits, the Department of Medicine and Surgery, and the Board of Veterans' Appeals of the Veterans' Administration, relevant information maintained by the Defense Nuclear Agency of the Department of Defense, and relevant information maintained by any other subdivision of the Veterans' Administration or the Department of Defense.

(e) DEPARTMENT OF DEFENSE INFORMATION.—The Secretary of Defense shall furnish the Administrator such information maintained by any agency of the Department of Defense as the Administrator considers necessary to establish and maintain the Registry.

(f) DEFINITION.—For the purpose of this section, the term "veteran" shall have the meaning provided in section 101(2) of title 38, United States Code, and shall also include a person who died in the active military, naval, or air service.

SEC. 213. AUTHORITY TO WAIVE LICENSURE AND INTERNSHIP REQUIREMENTS FOR RESEARCH PSYCHOLOGISTS

Clause (8) of section 4105(a) is amended by striking out "may" and all that follows through "and" at the end of such clause and inserting in lieu thereof the following:

"may, on a case-by-case basis—

"(A) waive the requirement of licensure or certification for a psychologist for a period not to exceed 2 years on the condition that such psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified; and

"(B) waive the requirements of internship and of licensure or certification for a psychologist who is to be employed to conduct research and is to have no responsibility for furnishing direct patient-care services; and".

SEC. 214. REQUIREMENT FOR MEDICARE HOSPITALS TO PARTICIPATE IN VETERANS' ADMINISTRATION CONTRACT HEALTH-CARE PROGRAM

(a) IN GENERAL.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof a comma and "and"; and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care under section 603 of title 38, United States Code, in accordance with such admission practices, and such payment methodology and amounts, as are prescribed under joint regulations issued by the Secretary and by the Administrator of Veterans' Affairs in implementation of such section.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to inpatient hospital services provided pursuant to admissions to hospitals occurring on or after January 1, 1987.

(c) REPORT.—The Secretary of Health and Human Services shall report to the Congress periodically on the number of hospitals that have terminated or failed to renew an agreement under section 1866 of the Social Security Act as a result of the additional conditions imposed under the amendments made by subsection (a).

(2) Not later than April 1, 1987, the Administrator of Veterans' Affairs shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives regarding implementation of this section and shall thereafter notify such committees in the event that any hospital terminates or fails to renew an agreement described in paragraph (1) for the reasons therein described.

SEC. 215. ORGANIZATION OF THE DEPARTMENT OF MEDICINE AND SURGERY

(a) OFFICE OF THE CHIEF MEDICAL DIRECTOR.—Section 4103(a) is amended—

(1) by inserting "persons, each of whom shall be qualified in the administration of health services" after "following";

(2) in clause (3)—

(A) by striking out "The" and inserting in lieu thereof "Two";

(B) by striking out "Director" the first place it appears and inserting in lieu thereof "Directors";

(C) by striking out "an assistant" and inserting in lieu thereof "assistants";

(D) by striking out "shall be a qualified doctor of medicine" and inserting in lieu thereof "both shall be persons with specified qualifications"; and

(E) by adding at the end the following new sentence: "Not more than one Associate Deputy Chief Medical Director may be a person who is a person with specified qualifications solely by reason of clause (ii) of the last sentence of this subsection.";

(3) in cluase (4)—

(A) by striking out "shall be" the first place it appears and inserting in lieu thereof "all shall be persons with specified qualifications.";

(B) by striking out "qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicines" and inserting in lieu thereof "who are persons with specified qualifications solely by reason of clause (ii) of the last sentence of this subsection"; and

(C) by striking out "qualified physician" and inserting in lieu thereof "person with specified qualifications";

(4) in clause (5)—

(A) by inserting a comma and "all of whom shall be persons with specified qualifications," after "Directors";

(B) by striking out the comma after "Administrator" and "Director", respectively"; and

(C) by striking out the second sentence;

(5) in clause (6), by inserting "upon the recommendation of the Chief Medical Director" after "Administrator";

(6) in clause (7)—

(A) by inserting a comma and "each of whom shall be licensed in the appropriate service field" after "Optometric Service"; and

(B) by inserting "upon the recommendation of the Chief Medical Director" after "Administrator"; and

(7) by adding at the end the following new sentence:

"For the purpose of this subsection, the term 'person with specified qualifications' means (i) a person meeting the requirements set forth in clause (1), (2), (3), (5), (6), (7), or (8) of subsection (a) of section 4105 of this title, or (ii) a person who meets or has met the requirements set forth in clause (4) of such subsection.".

(b) TECHNICAL AMENDMENT.—Clause (3) of section 4103(b) is amended by inserting a comma after "reappointed" and after "extended", respectively, and by striking out the comma after "reappointment".

PART C—MEDICAL FACILITY CONSTRUCTION AND PLANNING

SEC. 221. PARKING FACILITIES

(a) REVISION OF AUTHORITIES.—(1) Section 5009 of title 38, United States Code, is amended to read as follows:

"§ 5009. Parking facilities

"(a) For the purpose of this section—

"(1) the term 'garage' means a structure (or part of a structure) in which vehicles may be parked;

"(2) the term 'parking facility' includes a surface parking lot and a garage; and

"(3) the term 'eligible person' means an individual to whom the Administrator is authorized to furnish medical examination or treatment.

"(b) In order to accommodate the vehicles of employees of medical facilities, vehicles used to transport veterans to or from such facilities for the purpose of examination or treatment, and the vehicles of visitors and other individuals having business at such facilities, the Administrator—

"(1) may construct or alter parking facilities, and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Administrator considers necessary for use as the site for any such construction or alteration;

"(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility that the Administrator considers necessary for use as a parking facility; and

"(3) may operate and maintain parking facilities.

"(c)(1) Except as provided in paragraph (2) of this subsection, each employee, visitor, and other individual having business at a medical facility for which parking fees have been established under subsection (d) or (e) of this section shall be charged the applicable parking fee for the use of a parking facility at such medical facility.

"(2) A parking fee shall not be charged under this subsection for the accommodation of any vehicle used to transport to or from a medical facility (A) a veteran or eligible person in connection with such veteran or eligible person seeking examination or treatment, or (B) a volunteer worker (as determined in accordance with regulations which the Administrator shall prescribe) in connection with such worker performing services for the benefit of veterans receiving care at a medical facility.

"(3) The Administrator shall collect (or provide for the collection of) parking fees charged under this subsection.

"(d)(1) For each medical facility where—

"(A) a garage constructed or acquired by the Veterans' Administration at a cost exceeding $500,000 (or, in the case of acquisition by lease, $100,000 per year), is first opened for use after September 30, 1986; or

"(B) a project for the alteration of a garage at a cost exceeding $500,000 is completed after September 30, 1986,

the Administrator shall prescribe a schedule of parking fees to be charged at all parking facilities used in connection with such medical facility.

"(2) The parking fee schedule prescribed for a medical facility referred to in paragraph (1) of this subsection shall be designed to establish fees which the Administrator determines are reasonable under the circumstances and, at a minimum, will provide revenue sufficient to recover the costs of operating and maintaining all parking facilities at such medical facility.

"(e) The Administrator may prescribe a schedule of parking fees for the parking facilities at any medical facility not referred to in subsection (d) of this section. Any such schedule shall be designed to establish fees which the Administrator determines to be reasonable under the circumstances and shall cover all parking facilities used in connection with such medical facility. The Administrator may consider the costs of operating and maintaining such parking facilities in prescribing any such fee schedule.

"(f) The Administrator may contract, by lease or otherwise, with persons, firms, or corporations for the operation of parking facilities at medical facilities under such terms and conditions as the Administrator shall prescribe and may do so without regard to laws requiring full and open competition.

"(g) Subject to subsections (h) and (i) of this section, there are authorized to be appropriated such amounts as are necessary to finance (in whole or in part)—

"(1) the construction, alteration, and acquisition (including site acquisition) of parking facilities at medical facilities; and

"(2) the operation and maintenance of parking facilities at medical facilities.

"(h)(1) Amounts appropriated pursuant to subsection (g) of this section and parking fees collected under subsection (c) of this section shall be administered as a revolving fund and shall be available without fiscal year limitation.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, the revolving fund shall be deposited in a checking account with the Treasurer of the United States.

"(B) The Administrator may deposit in depositories selected by the Administrator such amounts as the Administrator determines necessary to establish and maintain accounts for the purposes of the operation and maintenance of parking facilities.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, no funds other than funds from the revolving fund may be expended for the construction, alteration, or acquisition (including site acquisition) of a garage at a medical facility after September 30, 1986.

"(B) Subparagraph (A) of this paragraph does not apply to the use of funds for investigations and studies, surveys, designs, plans, working drawings, specifications, and similar actions not directly involved in the physical construction of a structure.

"(i)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, acquisition (including site acquisition), operation, and maintenance of parking facilities at medical facilities and may be made only as provided for in appropriation Acts.

"(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund (including any funds proposed in such bill, resolution, or amendment to be appropriated to the revolving fund) may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a parking facility or facilities at a medical facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.

"(j) Nothing in this section shall preclude funds appropriated to the Veterans' Administration medical care account from being used for the operation and maintenance of parking facilities at medical facilities.".

(2) The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 5009 and inserting in lieu thereof the following:

"5009. Parking facilities.".

(b) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2)(A)(i) The amendments made by this section shall not abrogate the provisions of a collective bargaining agreement which, on the date of the enactment of this Act, is in effect and includes a provision which specifies a termination date for such agreement.

(ii) In the case of a collective bargaining agreement which on such date of enactment is in effect but has no provision which specifies a termination date, the authorities and requirements in section 5009 of title 38, United States Code, as amended by subsection (a)(1) of this section, to establish and collect parking fees shall take effect on January 1, 1988.

(iii) After the date of the enactment of this Act, if a collective bargaining agreement described in division (i) is modified, extended, or renewed, division (i) shall no longer, as of the date of the modification, extension, or renewal, apply to such agreement.

(B) Subsection (h)(3) of section 5009 of title 38, United States Code, as such section is amended by subsection (a)(1) of this section, shall not apply to the expenditure of funds appropriated for a fiscal year prior to fiscal year 1987 for the construction alteration, or acquisition (including site acquisition) of a parking facility at a Veterans' Administration medical facility.

SEC. 222. CONSIDERATION OF SHARING DEPARTMENT OF DEFENSE FACILITIES

Section 5004(b)(1) is amended by inserting "and to the sharing of health-care resources with the Department of Defense under section 5011 of this title" after "purcase".

SEC. 223. STATE HOME GRANTS

(a) DELETION OF AUTHORITY FOR GRANTS FOR THE EXPANSION OF STATE HOME HOSPITAL FACILITIES.—(1) Section 5031(c) is amended to read as follows:

"(c) The term 'construction' means—

"(1) the construction of new domiciliary or nursing home buildings;

"(2) the expansion of existing buildings for the provision of domiciliary or nursing home care in State homes;

"(3) the remodeling or alteration of existing buildings for the provision of domiciliary, nursing home, or hospital care in State homes; and

"(4) the provision of initial equipment for any such buildings.".

(2) Section 5032 is amended to read as follows:

"§ 5032. Declaration of purpose

"The purpose of this subchapter is to assist the several States (1) to construct State home facilities (or to acquire facilities to be used as State home facilities) for furnishing domiciliary or nursing home care to veterans, (2) to expand existing buildings for furnishing domiciliary or nursing home care to veterans in State homes, and (3) to remodel or alter existing buildings for furnishing domiciliary, nursing home, or hospital care to veterans in State homes.".

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 5033 is amended by striking out "five" and inserting in lieu thereof "8".

(c) ESTABLISHMENT OF PRIORITY OF PROJECTS.—(1)(A) Subchapter III of chapter 81 is amended by adding at the end the following new section:

"§ 5038. Priority of projects

"(a) Sums available for grants under this subchapter shall be allocated among State home facilities construction projects in accordance with the priority established for such projects pursuant to subsection (b) of this section.

"(b) The Administrator shall prescribe regulations to establish criteria and procedures for determining the priority to be accorded to State home facilities construction projects with respect to which applications have been approved under section 5035 of this title.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5037 the following new item:

"5038. Priority of projects.".

(2)(A) The Administrator of Veterans' Affairs shall develop the regulations required by section 5038(b) of title 38, United States Code (as added by paragraph (1)), and any amendments to those regulations, through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code. The period for public review and comment shall be completed not later than 60 days after the proposed regulations or proposed amendments are published in the Federal Register in accordance with subparagraph (B).

(B) Not later than 180 days after the date of the enactment of this Act, the Administrator shall develop and publish in the Federal Register a proposed version of the regulations required to be prescribed by such section 5038(b).

(C) Not later than 270 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register the final regulations required to be prescribed by such section 5038(b).

(3)(A) Except as provided in subparagraph (B), the amendments made by paragraphs (1) and (2) shall take effect with respect to applications submitted to the Administrator of Veterans' Affairs under section 5035 of title 38, United States Code, on or after October 1, 1986.

(B) The amendments made by paragraphs (1) and (2) shall not apply with respect to an application referred to in subparagraph (A) if, before October 1, 1986, the applicant furnished any preliminary information to the Veterans' Administration relating to such application in accordance with procedures established by the Veterans' Administration and then in effect in connection with the administration of subchapter III of chapter 81 of title 38, United States Code.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. MODIFICATIONS OF CERTAIN REPORTING REQUIREMENTS

(a) REPEAL OF ANNUAL REPORTS ON EQUITABLE RELIEF.—Section 210(c)(3) is amended by striking out "(A)" and clause (B).

(b) CONDITIONAL ELIMINATION OF REQUIREMENT FOR REPORT ON CONTRACT DENTAL CARE.—Paragraph (4) of section 612(b) is amended—

(1) by striking out "In" after "(4)" and inserting in lieu thereof "(A) Except as provided in subparagraph (B) of this paragraph, in"; and

(2) by adding at the end the following new subparagraph:

"(B) No report under subparagraph (A) of this paragraph with respect to a fiscal year is required if, in the documents submitted by the Administrator to the Congress in justification for the amounts included for Veterans' Administration programs in the President's Budget, the Administrator specifies with respect to contract dental care described in such subparagraph—

"(i) the actual level of expenditures for such care in the fiscal year preceding the fiscal year in which such Budget is submitted,

"(ii) a current estimate of the level of expenditures for such care in the fiscal year in which such Budget is submitted; and

"(iii) the amount included in such Budget for such care.".

(c) EXTENSION OF PERIOD FOR REPORT ON SPECIAL PAY FOR PHYSICIANS AND DENTISTS.—Section 4118(g)(2)(C) is amended by striking out "one every two years" and inserting in lieu thereof "December 31, 1984, and once every 3 years".

(d) REPEAL OF REQUIREMENT FOR REPORT ON EXCHANGE OF MEDICAL INFORMATION PROGRAM.—(1) Section 5053 is amended by adding at the end the following new subsection:

"(e) The Administrator shall submit to the Congress not more than 60 days after the end of each fiscal year a report on the activities carried out under this section. Each report shall include (1) an appraisal on the effectiveness of the activities authorized in this section and the degree of cooperation from other sources, financial and otherwise, and (2) recommendations for the improvement or more effective administration of such activities.".

(2) Section 5057 is repealed.

(3) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to section 5057.

Amend the title so as to read:

A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to improve the Veterans' Administration home loan guaranty program; to provide the Veterans' Administration with authority to contract for psychiatric residential treatment for certain chronically mentally ill veterans and to conduct pilot programs to provide respite care for certain veterans and and to contract for health-related services for certain veterans; to extend certain expiring authorities; to revise the authority of the Veterans' Administration to construct and operate parking facilities at its medical facilities; and to require the Veterans' Administration to establish an Ionizing Radiation Registry and for other purposes.

INTRODUCTION

S. 2422 was introduced on May 8, 1986, by the Chairman of the Committee, Senator Frank Murkowski, and was co-sponsored by Senator Alan Cranston, the Ranking Minority Member, and Committee Member Strom Thurmond. As introduced S. 2422 would have, first, provided a 3.4 percent cost-of-living adjustment in the rates of disability compensation and dependency and indemnity compensation (DIC); second, would have improved the administration of the VA home loan guaranty program; third, would have authorized collection by the VA of certain debts by means of offset from VA compensation or pension; fourth, would have authorized the VA to require fiduciaries of incompetent VA beneficiaries to provide additional information concerning the beneficiary's finances; fifth, would have revised the authority of the VA to construct, operate and maintain parking facilities at VA medical facilities; and sixth, would have waived application of the "notice and wait" requirement of section 210(b) of title 38, United States Code, for a certain administrative reorganization in VA Central Office.

On March 10, 1986, Senator Thurmond introduced S. 2168, which would have added, first, the residuals of frostbite and, second, arthritis resulting from trauma incurred during internment to the list of disabilities of former prisoners of war which are presumed to be service connected.

On April 15, 1986, Senator Cranston introduced S. 2304, which would have extended for 3 years, from September 30, 1986, to September 30, 1989, the expiration date of the veterans readjustment appointment authority.

S. 2445 was introduced on May 13, 1986, by the Chairman of the Committee, Senator Frank Murkowski, and was co-sponsored by Committee Members Simpson and Thurmond. As introduced S. 2445 would have, first, provided the VA with the authority to furnish respite care to chronically ill veterans; second, provided the VA with the authority to furnish hospital-based home care and community-based health-related services to certain veterans; third, clarified the VA's authority to provide community-based psychiatric residential treatment for chronically mentally ill veterans; fourth, provided the VA with the authority to hire certain psychologists to conduct research; fifth, added domiciliary beds to the requirement for a minimum number of VA operating beds; sixth, required the VA to develop criteria and procedures for prioritizing State Veterans' Home construction projects; and seventh, required the VA to establish an Ionizing Radiation Registry.

On April 30, 1986, Senator Alan Cranston, the Committee's Ranking Minority Member, introduced S. 2388. As introduced, S. 2388 would have, first, authorized the VA to enter into agreements with State and local governments pursuant to which the VA may enforce through State courts State and local traffic law violations occurring on VA property; second, provided authority for the VA to furnish services to enable a veteran or a veteran's spouse achieve pregnancy in cases in which the veteran's service-connected disability impairs procreative ability; third, authorized the VA to provide bereavement counseling to a family member for up to 6 months following the veteran's death in cases in which a veteran's family members have been receiving counseling or mental health services from the VA in connection with the veteran's care; fourth, revised eligibility for VA domiciliary care so as to reflect more accurately the VA's current philosophy and practice in furnishing that care; fifth, provided eligibility for VA readjustment counseling to (1) Armed Forces active duty personnel who served during the Vietnam era, and (2) persons who served in the Armed Forces after the Vietnam era in combat situations; sixth, authorized the VA to carry out a 3-year pilot program of respite care; seventh, required the Administrator to conduct a 4-year pilot program of noninstitutional care under which veterans eligible for and otherwise in need of VA institutional care would instead receive care, including health-related services from non-VA entities, in noninstitutional settings; eighth, eliminated the Administrator's authority to modify by regulation eligibility for VA health-care benefits; ninth, extended by 3 years, through fiscal year 1989, the VA's current authorities to make annual grants of up to $500,000 to the Republic of the Philippines to assist with the maintenance of the Veterans' Memorial Medical Center in Manila and to make payments to the Philippine Government for the care and treatment of U.S. veterans in that facility; tenth, made permanent the authority of the Administrator to conduct a program of independent living services and assistance for severely disabled service-connected veterans whom the VA determines the achievement of a vocational goal is not reasonably feasible; and eleventh, extended by 5 years, through fiscal year 1991, the current authorization of annual appropriations of "such sums as may be necessary" for the VA to support its program of grants to the States for the construction of State Veterans' Homes.

On March 11, 1986, Chairman Murkowski introduced, by request of the Administration, S. 2172. As introduced, S. 2172 would have authorized modification of the structure of the Ofice of the Chief Medical Director, clarified procedures for removal for cause of certain employees, and authorized the use of the Director Pay Grade within VA Central Office.

On March 11, 1986, Chairman Murkowski introduced, by request of the Administration, S. 2174. As introduced, S. 2174 would have required that non-Federal providers of hospital services receiving direct payment of Medicare funds for the treatment of Medicare beneficiaries provide similar services to VA beneficiaries under similar VA payment policies.

On July 31, 1985, Committee Member Mitchell and Senator Cohen introduced S. 1536. As introduced, S. 1536 would have provided that per diem subsidies paid by the VA for the care of veterans in State Veterans' Homes shall not be used to offset payments that are made under the Medicaid program for the purposes of assisting eligible veterans.

On April 10, 1986, the Committee held a hearing to receive testimony on matters pertaining to the VA's medical facility construction program. Testimony was received from the Honorable Thomas K. Turnage, Administrator of Veterans' Affairs; Mr. John Cherbini, Associate Director, Accounting and Financial Management Division, General Accounting Office; Mr. Winfield M. Kelly, Director, Board of Directors, Maryland Chamber of Commerce; and representatives of The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, and the Paralyzed Veterans of America.

In addition, on May 20, 1986, the Committee held a hearing to receive testimony on certain VA benefits-related legislation and health-care-related legislation, including S. 1536, S. 2168, S. 2174, S. 2304, S. 2388, S. 2422, and S. 2445. Testimony was received from Dr. John Ditzler, Chief Medical Director of the VA; Mr. William Carney, Administrator, Maine Veterans Home; and representatives of the above listed veterans' service organizations.

After carefully reviewing the testimony from these hearings, the Committee met in open session on June 26, 1986, and voted unanimously to report favorably S. 2422 with an amendment in the nature of a substitute, which incorporated provisions derived from S. 2422 as introduced, S. 2168, S. 2174, S. 2304, S. 2388, and S. 2445, and an amendment derived from S. 1536 and offered by Senator Mitchell and agreed to by the Committee by a 6–5 vote.

Summary of S. 2422 as Reported

S. 2422 as reported (hereinafter referred to as the "Committee bill") has 3 titles: Compensation and Other Benefit Programs; Health Care; and Miscellaneous Provisions, as follows:

TITLE I—COMPENSATION AND OTHER BENEFIT PROGRAMS

This title would provide a cost-of-living adjustment for VA compensation benefits and make improvements in various benefits programs.

Part A—Benefits

Part A of this title includes free-standing provisions which would require the Administrator of Veterans' Affairs to adjust, effective December 1, 1986, the rates and limitations for compensation paid to veterans with service-connected disabilities and the dependency and indemnity compensation (DIC) paid to certain service-connected-disabled veterans' survivors. The adjustment would be the same percentage as that paid to Social Security recipients and VA pension beneficiaries effective on that same date.

The adjustment would apply to:

(1) basic compensation rates for service-connected disabled veterans and, generally, the rates payable for certain severe disabilities;

(2) the allowances for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30-percent or more disabled;

(3) the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out clothing; and

(4) the DIC rates paid to:

(a) surviving spouses of veterans whose deaths were service connected;

(b) surviving spouses for dependent children and surviving spouses who are so disabled as to be in need of regular aid-and-attendance or to be permanently housebound; and

(c) the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

In addition, this title includes amendments to chapters 11, 31, and 42, of title 38, United States Code, which would:

1. Add the residuals of frostbite to the list of disabilities which are presumed to be service connected in the case of certain former prisoners of war who were interned in an environment in which frostbite might have occurred.

2. Extend for 3 years (fiscal years 1987 through 1989) the VA's authority to conduct a pilot program of independent living services and assistance for severely disabled service-connected disabled veterans; make certain clarifying amendments; and require the Administrator to submit certain statistical data regarding the pilot program by February 1, 1989.

3. Extend the authority for veterans readjustment appointments for 2 fiscal years (through September 30, 1988).

Part B—Benefit Program Administration

Part B of this title includes amendments to chapters 30, 36, 37, 53, and 55 of title 38, United States Code, that would:

1. Require the VA, in the case of a foreclosure on a VA guaranteed loan, to pay the guaranty, as opposed to accepting conveyance of, the property securing the loan, unless the Administrator determines that the VA is likely to be able to sell the property within 12 months after the date of foreclosure at a price which is economically advantageous to the government.
2. Prohibit dual receipt of educational benefits under the New GI Bill and the Hostage Relief Act of 1980.
3. Eliminate the requirement that the Administrator's Advisory Committee on Education include veterans of World War II and the Korean Conflict.
4. Provide that the VA may require a fiduciary to provide an accounting of all the beneficiary's income and assets that are known to the fiduciary.
5. Authorize the VA, upon request from the Department of Defense, to collect certain overpayments and indebtedness from the compensation or pension paid to military retirees who have waived their retirement pay in favor of VA benefits.

In addition, a free-standing provision would waive the waiting period prescribed by section 210(b)(2) of title 38 with respect to a reorganization involving the transfer of certain functions—the Presidential Memorial Certificate Program and the Audio Visuals Service—from the VA's Office of Administration to the VA's Department of Veterans' Benefits and to the Office of the Associate Deputy Administrator for Public and Consumer Affairs.

TITLE II—HEALTH CARE

This title would improve, expand, and extend certain VA healthcare programs.

Part A—Health Care Programs

Part A of this title includes amendments to chapter 17 of title 38, United States Code that would:

1. Define "home health services" to include services furnished to a veteran in any setting, other than a VA facility, in which the veteran is residing at the time the services are furnished.
2. Authorize the Administrator to furnish certain chronically mentally ill veterans with treatment and rehabilitation in community-based psychiatric residential treatment facilities and require the Administrator to submit a report on the implementation of this authority not later than 3 years after the date of enactment.
3. Authorize the Administrator to conduct a 4-year pilot program to furnish respite care services to veterans with compensable service-connected disabilities and require the Administrator to submit a report on the program by February 1, 1990, on the results of a study to be conducted on the health efficacy and cost-effectiveness of furnishing respite care.

4. Require the Administrator to conduct a 4-year pilot program through 5 to 10 demonstration projects under which veterans eligible for and otherwise in need of VA hospital, nursing home, or domiciliary care, would instead receive care, including health-related services from non-VA entities, in noninstitutional settings; provide a priority for such care and services to veterans with service-connected disabilities, to veterans who are 65 years of age or older, to veterans who are totally and permanently disabled, to veterans who are blind in both eyes, or to veterans who are suffering from dementia, including Alzheimer's disease; and require the Administrator to submit a report on the program by April 1, 1990.

5. Authorize the Administrator to furnish services to a service-connected veteran or the spouse of a service-connected veteran to achieve pregnancy in cases where the veteran's service-connected disability causes the veteran's inability to procreate.

6. Authorize the Administrator to furnish bereavement counseling for up to 6 months following the death of the veteran to family members of veterans whose deaths were unexpected or who were receiving VA hospice services prior to death.

7. Modify eligibility criteria for VA domiciliary care to provide the Administrator with the authority to furnish such care to veterans with service-connected disabilities or those who are incapacitated from earning a living and have no adequate means of support.

8. Extend for 3 years, through fiscal year 1989, the VA's authority to contract for the care of U.S. veterans in the Philippines; authorize the VA to make grants up to $500,000 for the Veteran's Memorial Medical Center in Manila; and require the VA to provide information every 6 months on the use and expenditure of the grant funds.

9. Specify that VA State Home per diem payments are not to be considered "third-party liabilities" for purposes of payments under the Medicaid program.

Part B—Health Care Administration

Part B of this title includes amendments to chapters 17 and 73 of title 38, United States Code, that would:

1. Authorize the Administrator to enter into agreements with State and local governments pursuant to which the VA may enforce through State courts State and local traffic law violations occurring on VA property.

2. Authorize the VA to waive certain licensure and internship requirements for certain research psychologists.

3. Require non-Federal hospitals which receive Medicare payments to accept as payment for VA fee-basis patients amounts to be determined by the Secretary of Health and Human Services and Administrator of Veterans' Affairs.

4. Establish one new position, and provide new flexibility in the appointment of individuals to other positions, in the Chief Medical Director's office, and require that appointees to positions in the Office of the Chief Medical Director be qualified in the Administration of health services.

In addition, this title includes free-standing provisions that would require the Administrator to establish and maintain an Ionizing Radiation Registry to contain medical, service-connected disability claim, and dose estimate information concerning certain veterans who were exposed to ionizing radiation during military service.

Part C—Medical Facility Construction and Planning

Part C of this title includes amendments to chapter 81 of title 38, United States Code, that would:

1. Require the VA to establish, collect, and deposit in a revolving fund reasonable fees for parking at all VA medical facilities at which parking structures are constructed, acquired, or altered after September 30, 1986, at a cost of more than $500,000 (or $100,000 per year if acquired by lease). Fee parking would be required for employees, visitors, and all other individuals, except veterans seeking treatment, volunteers, and certain VA employees covered by an existing collective bargaining agreement that provides for free parking.
2. Require generally that projects for future construction alteration, or acquisition of parking facilities at VA medical facilities be funded from the revolving fund.
3. Require the Administrator to include in any prospectus proposing the construction of a new or replacement medical facility a description of the consideration given to VA-Department of Defense sharing of resources.
4. Repeal the Administrator's authority to provide grants for the expansion of State Veterans' Home hospital facilities; extend for 3 years the VA's authority to appropriate funds for State Home construction grants; and require the VA to prescribe and publish regulations not later than 180 days after the date of enactment specifying a methodology to prioritize State Home projects.

TITLE III—MISCELLANEOUS PROVISIONS

Included in title III of the Committee bill are amendments to chapters 3, 17, and 73 of title 38, United States Code, that would:

1. Repeal the requirements for the VA to submit to the Congress annual reports on equitable relief to certain VA beneficiaries and on the Exchange of Medical Information program.
2. Waive the requirement for annual VA reports on expenditures for contract dental care on condition that the VA's budget documents contain certain information on such care.
3. Modify the requirement for biennial reports on special pay for VA dentists and physicians so as to require that report every 3 years.

DISCUSSION

TITLE I—COMPENSATION AND OTHER BENEFIT PROGRAMS

Part A—Benefits

Rate Increases

Section 101 of the Committee Bill, which is derived from section 108 of S. 2422 as introduced, would require the Administrator to adjust, effective December 1, 1986, the rates and limitations for compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) paid to certain service-connected disabled veterans' survivors. The adjustment would be the same percentage as that provided to Social Security recipients and VA pension beneficiaries effective the same date.

Background

The service-connected disability compensation program provides monthly cash benefits to veterans who have suffered disabilities during, or as a result of, their service in our Nation's Armed Forces.

The amount paid in individual instances is contingent upon the nature of the veteran's disability or combination of disabilities and the extent to which earning capacity is considered to have been impaired. Compensable disabilities are rated according to the VA's Schedule for Rating Disabilities on a graduated schedule ranging from 10- to 100-percent. Higher monthly rates are payable to totally disabled veterans with certain specific, very severe disabilities and combinations of disabilities.

The VA disability compensation program in June 1986 provided benefits for 2,228,619 veterans who have service-connected disabilities. This number includes disabled veterans with the following periods of service: 10,400 World War I veterans; 1,023,528 World War II veterans; 220,562 Korean-conflict veterans; and 610,423 Vietnam-era veterans. Veterans whose disabilities are rated at 30 percent or more may receive additional compensation for the veteran's spouse, children, and dependent parents. These dependents' allowances are pro-rated according to the percentage of disability. As of March 1986, 683,635 veterans received additional compensation for 1,086,398 dependents.

DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, children between the ages of 18 and 23 who are enrolled in school, and certain needy parents—of servicemen or veterans who died on or after January 1, 1957, from: (1) a disease or injury incurred or aggravated in the line of duty while on active duty or active duty for training; or (2) an injury incurred or aggravated in the line of duty on inactive duty training; or (3) a disability compensable under laws administered by the VA.

Surviving spouses, children, and parents who are receiving death compensation by reason of a veteran's death occurring before January 1, 1957, may elect instead to receive DIC. However, they cannot, thereafter, receive death compensation.

DIC is paid to surviving spouses at rates determined by the pay grade—service rank—of the deceased veteran. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid-and-attendance, and additional amounts are payable for the veteran's surviving children. Children become entitled to DIC where there is no surviving spouse, or is the child age 18 or over and has become permanently incapable of self-support before reaching the age of 18, or the child is age 18–23 and pursuing an approved course of education. As of June 1986, DIC benefits were paid to or for 312,256 surviving spouses and children of those who died as a result of their service-connected disabilities. In addition, DIC was paid to 40,025 needy surviving parents of veterans whose deaths were service connected. Under Public Law 95–588, the provisions of chapter 13 of title 38, United States Code, governing the parents' DIC rates, were amended to provide for automatic annual adjustments at the same time and by the same percentage as Social Security benefits.

Under section 410(b) of title 38, benefits are also paid at DIC rates to the surviving spouse and children of veterans whose deaths are not determined to be service connected, where the veteran received compensation at the 100-percent rate over an extended period of time immediately prior to his or her death.

History of cost-of-living increases

The Committee periodically reviews the service-connected disability compensation program with a view toward assuring that the benefits authorized provide reasonable and adequate compensation for disabled veterans and their families. Congress has acted periodically to provide cost-of-living adjustments (COLA's) in compensation benefits in order to ensure that those benefits keep pace with inflation.

The DIC program, which supplanted the earlier death compensation program, was established in 1956 with the enactment of the Servicemen's and Veterans' Survivors Benefit Act (Public Law 881, 84th Congress).

In fiscal year 1986, expenditures for the compensation and DIC programs combined will total nearly $10.5 billion.

Committee bill

The Committee bill would direct the VA to compute and provide for increases, effective December 1, 1986, in the service-connected disability compensation and DIC rates. The percentage increase would be the same percentage as the COLA, also effective December 1, 1986, to be paid to Social Security beneficiaries and to VA pensioners eligible for benefits under the pension program established by Public Law 95–558. In calculating the rate increases, the VA would be directed to round to the next higher dollar all amounts of $.50 or more; amounts of less than $.50 would be rounded down. The effective date conforms with section 108 of Public Law 98–223, which expressed the sense of Congress that COLA's for fiscal years subsequent to 1984 are to take effect on December 1.

The rate adjustment provided by the Committee bill would apply to the monthly rates of disability compensation under section 314 of title 38, United States Code, except for the monthly rate specified in subsection (k) of section 314; the rates of additional monthly compensation for dependents payable under section 315 to veterans rated 30-percent or more disabled; and the annual clothing allowance under section 362 for disabled veterans who must use prosthetic or other orthopedic appliances, such as wheelchairs, that tend to tear or wear out their clothing. The limitations of maximum monthly amounts payable specified in subsections (k) and (p) of section 314, would also be increased. Those are specified dollar amounts that may not be exceeded in the event that a veteran would otherwise be entitled to a higher amount by reason of entitlement to two or more monthly rates.

The Committee bill would also provide for a COLA in DIC rates for surviving spouses and children at the same percentage provided for service-connected disabled veterans by the Committee bill. Additional allowances for surviving spouses in need of aid-and-attendance or who are housebound, helpless children age 18 or over, and children between the ages of 18 and 23 attending school would also be increased by the same percentage.

The increase would also be applicable to benefits paid at DIC rates under section 410(b) of title 38, to the surviving spouses and children of certain totally disabled service-connected disabled veterans whose deaths were not service connected.

In written testimony for the May 20, 1986 hearing, the VA testified, "We support, as we have in the past, a percentage increase in VA disability compensation and DIC rates equal to that required by law for Social Security recipients." The Committee notes the general support of the veterans' service organizations for an adjustment equal to that provided the recipients of Social Security.

The percentage increase of the Social Security COLA will not be known until early November. At the present time, although the Congressional budget (S. Con. Res. 120) as adopted on June 26 is based on the assumption that the COLA will be 2 percent, the Congressional Budget Office was still, as of the date of the Committee's meeting on this legislation, officially estimating that the increase will be 3.4 percent and, as of the date of this report, is estimating that it will be 1.3 percent. Rather than selecting any particular percentage adjustment at this time, the Committee believes that the statutory tie-in to the Social Security increase this year is the most equitable means of providing for this increase in these service-connected benefits.

Presumption of Service Connection of Residuals of Frostbite for Former Prisoners of War

Section 102 of the Committee bill, which is derived from S. 2168, would add the residuals of frostbite in certain cases to those disabilities of former prisoners of war which, if the disabilities become 10 percent disabling, are presumed to be service connected even though there is no record of the disability during the veteran's period of service.

Background

Current law (section 312(b) of title 38) recognizes the harsh conditions of capture and internment, and the difficulty in documenting an injury or disease occurring during internment, by providing former prisoners of war a presumption of service connection for 10 conditions which may be the result of their captivity.

Committee bill

The Committee bill would add residuals of frostbite to the list of conditions for which a presumption of service connection is provided in the case of a veteran who is a former POW who was detained or interned for not less than 30 days if the disability is at least 10 percent disabling and if the veteran was held in a climate in which frostbite could have occurred.

In written testimony submitted for the May 20, 1986 hearing, referring to S. 2168, the VA questioned the need for this provision stating, "We have no reason to believe that former POW's with these disabilities are being denied benefits." The Committee notes the circumstances surrounding the capture and internment of prisoners of war are such that unrecorded frostbite could occur in a significant number of instances. Thus, the Committee believes it appropriate to add the residuals of frostbite to the disabilities of former prisoners of war which may be presumed to be service connected under appropriate conditions.

The residuals of frostbite could be service connected on the basis of this section of the Committee bill only if it is determined that the veteran was captured or held in a climate in which frostbite might occur. The Committee included this provision in the Committee bill to exclude a presumptive service connection of the residuals frostbite for individuals who were held only in tropical climates or during warm weather. The Committee expects the VA to give great weight to the veteran's description of the circumstances of frostbite injury and to accept that description if it is possible that these circumstances occurred and the veteran suffers from residuals of frostbite.

Traumatic arthritis

In the case of traumatic arthritis, with which S. 2168 also deals, the Committee notes that there is disagreement as to the adequacy of current medical science to distinguish between arthritis resulting from earlier trauma and arthritis which is the result of other causes or which normally occurs during the aging process. The Committee therefore directs the VA to provide a report, no later than January 1, 1988, to the Committees on Veterans' Affairs of both the Senate and House of Representatives on the effectiveness of current procedures for evaluating claims for service connection for traumatic arthritis. Specifically, the Committee expects that the report will, first, include data on the number of former prisoners of war who claim service connection for traumatic arthritis, the number of claims granted or denied and the basis for those results; second, evaluate the adequacy of current diagnostic techniques for ruling out past trauma as a cause of current arthritis and distinguishing between past trauma and other causes of arthritis; and third, show the expected rate of occurrence of arthritis, including traumatic arthritis, in aging Americans.

Extension of Pilot Program of Independent Living Services and Assistance

Section 103 of the Committee bill, which is derived from section 11 of S. 2388, would extend for 3 years (fiscal years 1987 through 1989) the authority of the Administrator to conduct a program of independent living services and assistance for severely disabled service-connected veterans for whom the VA determines the achievement of a vocational goal is not reasonably feasible. In addition, this section of the Committee bill would clarify that such a determination is to be made with respect to a veteran's current perceived capabilities and potential for achieving a vocational goal and is not to be restricted to those veterans for whom it is believed that achievement of such a goal might never be reasonably feasible.

Background

The pilot program of independent living services and assistance has been carried out pursuant to provisions of section 1520 of title 38—as added by Public Law 96-466—authorizing the VA to conduct such a program on a pilot basis for a period of 4 years (fiscal years 1982 through 1985) in order to provide assistance to enable eligible veterans to achieve maximum independence in daily living. Under this authority, the services and assistance involved were to be provided through contracts with public or nonprofit agencies having a demonstrated capacity to conduct independent living services programs for handicapped persons, including the VA's Department of Medicine and Surgery. This program was modeled after the program of services and assistance provided under section 702 of the Rehabilitation Act of 1973, as added by the Rehabilitation Act Amendments of 1978, Public Law 95-602. Not more than 500 veterans a year were to be afforded an opportunity to initiate a program of independent living services under the pilot program.

Experience under the pilot program demonstrates that the utilization of the program did not approach the magnitude originally envisioned, but that the services and assistance provided were beneficial for those veterans who participated. In an August 26, 1985, supplemental report, the VA stated that during the period from November 4, 1981, the beginning of the program, through December 31, 1984, a total of 286 veterans were referred for participation in the pilot program and 207 of these referrals were approved for the program. As of December 31, 1984, 40 veterans had completed the program and 85 were still participating. The VA's study of the achievements of the pilot program found that "program participants who were evaluated made significant progress in improving their level of independence", and nearly half of the program completers were adjudged better able to live more independently in their communities. Moreover, as the VA noted in its report, "perhaps the most meaningful indication of change is the veteran's own perception of the change in his or her life. . . . Program completers experienced significant favorable change, and an increased sense of wellbeing, both following completion of their programs and 6 months following completion."

The costs of providing these services to severely disabled veterans were minimal. Based on the 99 participants for whom complete data were available, the VA found the total cost of contracted services, subsistence allowances, travel, and staff overhead was $373,542 for the period November 4, 1981, through December 31, 1984, with a median cost of $217.50 and a mean cost of $3,772.24. The VA concluded in its report:

> Certainly not all of the program participants benefited at the same rate or to the same degree. In fact, some achieved little if any benefit from the program. However, it should be remembered that all of the participants were seriously disabled and handicapped to the extent that employment was determined to be infeasible for them. Many of the participants had experienced long-term or repeated institutionalization with little hope of any significant changes in their lives. The study suggests that many of the program participants who complete their programs may experience less institutionalization . . . and achieve a greater level of independence in living at a moderate cost.

Although there is not yet sufficient experience to make an unqualified evaluation of the program's impact, the August 1985 report submitted by the VA recommended that the program be continued as a pilot program for a period of 3 additional years.

Committee bill

The Committee believes that the program can be of significant assistance to seriously disabled veterans in terms of assisting them in achieving maximum independence and that the authority for the Administrator to provide this type of service and assistance to such veterans should continue to be available. However, because program participation has been so low, the Committee has not recommended making the program permanent.

In order to provide the Committee with the information necessary to consider any future extension or modification of the authority, the Committee bill would require the Administrator, not later than February 1, 1989, to submit to the Committees on Veterans' Affairs of the Senate and the House statistical data regarding veterans' participation in the program during fiscal years 1987 and 1988, together with any recommendations of the Administrator for administrative and legislative action regarding such program. It is the Committee's intention that the data include statistics on the number of veterans entering the pilot program, the number of veterans completing the program, costs, the ratings for the service-connected disability of veteran participants, and any changes in such ratings as a result of participation.

Extension of Authority for Veterans' Readjustment Appointments

Section 104 of the Committee bill, which is derived from S. 2304, would extend for 2 additional years through September 30, 1988, the authority for veterans readjustment appointments (VRA's).

Background

The VRA authority, which would otherwise expire on September 30, 1986, permits certain disabled Vietnam-era veterans and educationally disadvantaged Vietnam-era veterans to be given excepted appointments in the Federal civil service. The purpose of the VRA authority is to assist these veterans by making it possible for them to be hired noncompetitively into the Federal civil service and to develop additional skills through a program combining education and training with the opportunity for a regular career appointment.

On March 26, 1970, President Nixon issued Executive Order No. 11521, which established a special civil service appointment authority for certain veterans and disabled veterans of the Vietnam era who were discharged after April 9, 1969. Under that original authority, the eligibility requirements specified that in order to be considered for an appointment a veteran must be qualified for the position, must have completed no more than 14 years of education, must have served on active duty during the Vietnam era, and generally must have been separated from the service for 1 year or less. Veterans who met these eligibility requirements could be given a VRA for any position in the competitive service at or below the General Schedule-5—GS-5—level or its equivalent. A veteran who satisfactorily completed 2 years of substantially continuous service under a VRA and an education or training program at the appointing Federal agency was converted to career conditional employment and automatically acquired a competitive status for civil service purposes.

In 1973, legislation based on this model and enacted in Public Law 93-508 codified the VRA authority as section 2014(b) of title 38, extended the eligibility period for certain veterans who enrolled in a program of education within 1 year after release from active duty, and provided for the continuation of the program through June 30, 1978.

In 1978, provisions—based upon legislation submitted by the Administration—to extend and expand the VRA program substantially were enacted in section 6(b) of the Veterans' Programs Extension Act of 1978, Public Law 95-520. These provisions extended the authority through September 30, 1981, and also extended eligibility to all Vietnam-era veterans with no more than 14 years of education, not just those separated after April 9, 1969, who enrolled in education, within 1 year following discharge, and eliminated the maximum limitation on the number of years of education for Vietnam-era veterans with service-connected disabilities and those who were discharged or released because of a service-connected disability. In addition, that measure raised the grade-level limitation for VRA's from GS-5 to GS-7 and expanded requirements for reporting on the Federal agencies' use of this authority.

In 1981, Public Law 97-72, further extended the authority through September 30, 1984, and in 1984, Public Law 98-543, extended the authority through September 30, 1986. Additionally, based on Administration-proposed legislation, Public Law 98-543 raised the grade-level limitation from GS-7 to GS-9 and provided veterans who receive VRA appointments with certain appeal rights to the Merit Systems Protection Board during their first year of employment.

Since the inception of this program in 1970, VRA's have provided employment opportunities for over a quarter of a million veterans. In fiscal year 1984, more than 20,000 appointments were made: in fiscal year 1985, more than 17,000. Overall, minority group veterans have received an average of 38 percent of the total appointments, service-connected disabled veterans, 10 percent, and women veterans, 9 percent. Over 80 percent of veterans who have received VRA's have converted to career conditional employment status in the civil service system.

The VRA program does not provide for the creation of additional Government jobs. All VRA positions are regular civil service positions that count against an agency's staffing ceilings. Federal agencies' participation in the program is influenced by such factors as the agency's interest in providing eligible veterans with VRA opportunities, budgetary considerations, the types of positions available that attract the interest and are compatible with the qualifications of VRA eligibles, and the ability to avoid bureaucratic redtape.

Committee bill

The Committee believes that the extension of the basic authority would allow an appropriate additional period of time—2 years—for the program to help those veterans still needing readjustment assistance.

Part B—Benefit Program Administration

Veterans' Administration Acquisition of Foreclosed Properties

Section 111 of the Committee bill, which is derived from section 201 of S. 2422 as introduced, would prohibit the VA from accepting conveyance of a property securing a VA guaranteed loan which has been foreclosed unless it could be determined that such property is likely to be sold within 12 months from the liquidation sale of that property at a price which is economically advantageous to the government.

Background

The VA home loan guaranty program was established by the Servicemen's Readjustment Act of 1944 (Public Law 78-346). This program was designed to assist veterans returning from World War II in obtaining a mortgage to purchase a home. Initially, an eligible veteran could receive a VA guaranty of 50 percent of the principal of a mortgage up to a maximum of $2,000. Qualifying loans were limited to a maximum maturity of 20 years and a maximum interest rate of 4 percent. No application for loan guarantees were to be accepted more than 5 years after the end of World War II.

The initial provisions of the law establishing the home loan guaranty program have been amended many times since 1944. A mortgage can now be obtained for a term of 30 years with a guaranty, up to a maximum of 60 percent of the principal, not to exceed $27,500. The maximum interest rate on VA loans is no longer set in law, but adjusted periodically by the Administrator to meet the demands of the loan market.

Since this program's inception, over 12 million home loans have been guaranteed by the VA. Traditionally, for the vast majority of these loans the cost to the government of providing the guaranty has been quite small and the benefit to veterans and to society quite significant. More recently, however, a high default and foreclosure rate coupled with a large VA inventory of foreclosed homes has threatened the viability of this program. In many cases, the cost to the VA of acquiring, managing, renovating, and reselling the properties involved has exceeded the income realized by the VA through property sales. As a result, the Loan Guaranty Revolving Fund (LGRF) has incurred significant deficits requiring an infusion of funds from various sources.

The program is financed primarily through the LGRF, which funds the payment of guaranties and the acquisition of foreclosed properties. LGRF receipts are derived from a one-percent fee charged to veterans (other than those with service-connected disabilities rated a 10 percent or greater) using their entitlements, the sale of foreclosed properties, transfers from the the Direct Loan Revolving Fund, and appropriations.

Under current law, the VA has two options when faced with a foreclosure of a guaranteed loan. It can pay the lender the amount guaranteed, or it can pay all the lender's costs in exchange for the title to the property securing the loan. Section 2512 of the Deficit Reduction Act of 1984 (Public Law 98-369) required the VA to follow prescribed guidelines in determining which of the two government options is the more advantageous. Yet, during fiscal year 1985, approximately 90 percent of the LGRF's obligations were incurred in connection with the acquisition, management, and disposition of properties, and the corresponding vendee loans.

The Committee is concerned that at the time a decision is made whether to pay the guaranty or to take title to the property, the VA does not adequately consider local market conditions and its ability to resell the property at the property's estimated net value within a given period of time. This has become apparent in certain regions of the country, such as, the Southwest where the precipitous drop in oil prices has caused severely depressed economic conditions and unemployment. Notwithstanding such conditions, during the first 6 months of fiscal year 1986, the VA acquired 90 percent of the properties in foreclosure in the city of Houston alone. In Texas, as of June 30, 1986, the VA had 4,717 homes in its inventory and had only recovered an average of 70 percent of its total costs from the properties the VA was able to sell. In view of the rising inventory and the short-term economic outlook for this area of the country, the percentage could drop even further absent a change in current policy.

Committee bill

To help prevent future losses arising from disadvantageous acquisitions of foreclosed properties, section 111 of the Committee bill would require the VA, in deciding whether to pay a guaranty or acquire the property, to consider the size of its inventory of acquired property in the area, the current and projected conditions of the real estate market, and the current projected general economic conditions of that area and to make a determination as to the likelihood of disposing of a specific property within 12 months after the liquidation sale of that property. If a determinaion is made that such property could not be sold within the prescribed period, the VA would be required to pay the guaranty to the lender.

Bar to Duplication of Educational Assistance Benefits

Section 112 of the Committee bill, based on an Administration proposal, would amend chapter 30 to prohibit a veteran from concurrently receiving benefits under the New GI Bill and the Hostage Relief Act of 1980.

Background

Under current law, concurrent receipt of educational assistance benefits under chapter 30, the so-called "New GI Bill", of title 38 and benefits under chapter 31, 34, or 35 of title 38 or chapter 106 or 107 of title 10 is prohibited. Thus, an individual entitled to educational assistance under chapter 30 and one or more of those other programs must elect under which program to receive benefits during any particular period of time.

Under the Hostage Relief Act, any employee of an agency of the United States who is in a missing status on or after November 4, 1979, as the result of a hostile action against the United States (or the spouse or child of such an employee) is entitled to reimbursement, for a certain time, for expenses incurred for tuition, books, fees, and subsistence while attending an educational or training institution.

Committee bill

Section 112 of the Committee bill would amend chapter 30 to prohibit a veteran from concurrently receiving benefits under the New GI Bill and the Hostage Relief Act of 1980. The Committee notes that concurrent receipt of education benefits under other chapters of title 38 and the Hostage Relief Act of 1980 is already prohibited and that this provision would conform the treatment of chapter 30 in this repect to the treatment of the VA's other program of educational assistance.

Membership of the Administrator's Advisory Committee on Education

Section 113 of the Committee bill, based on an Administration proposal, would repeal the requirement that veterans of World War II and the Korean conflict be represented on the Administrator's Advisory Committee on Education, established pursuant to section 1792 of title 38 to advise the Administrator with respect to various educational assistance programs conducted under title 38.

Background

Under current law, the advisory committee must include veterans representative of those who served during World War II, the Korean conflict, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era.

Committee bill

In the Committee's view, repeal of this requirement is warranted since very few, if any, World War II or Korean conflict veterans still receive educational assistance benefits from the VA and veterans of these periods are, thus, no longer representative of the veteran population receiving benefits under current VA programs. The Administrator would, of course, have discretionary authority to continue such representation if the Administrator deemed it desirable.

Disclosure of Financial Information by Federal Fiduciaries

Section 114 of the Committee bill, which is derived from section 306 of S. 2422 as introduced, would make clear that a fiduciary, entrusted with the management of the veterans' benefits of an incompetent or minor beneficiary, can be required by the VA to provide an accounting of all of the funds and assets of the beneficiary which are known to the fiduciary.

Background

Under current law (section 3202 of title 38), if a VA beneficiary is determined to be incompetent to manage his or her funds a fiduciary may be appointed or recognized by the VA. In this event, the veteran's benefits are paid to the fiduciary on behalf of the benficiary. The fiduciary is responsible for ensuring that the benefits are expended for the use and benefit of the beneficiary and that the beneficiary's needs are met.

The VA supervises these fiduciaries and verifies that payments are properly utilized for the benefit of the beneficiary. The VA may suspend payments to a fiduciary who fails to provide an accounting of the beneficiary's payments.

Committee bill

In written testimony for the May 20, 1986 hearing, the VA informed the Committee that current law is unclear as to the VA's authority to require a fiduciary to report to the VA on the use of non-VA income or assests of the beneficiary. The Committee agrees that adequate supervision of a fiduciary, and protection of the beneficiary's interest, usually requires a complete understanding of the beneficiary's income and assets including those derived from non-VA sources. The Committee bill makes clear that the VA has the authority to require a fiduciary to make available to the VA all information available to the fiduciary and needed by the VA to acquire that understanding.

Waiver of Waiting Period for Administrative Reorganization

Section 115 of the Committee bill would waive the waiting period prescribed by section 210(b)(2) of title 38 with respect to a proposed reorganization involving the transfer from the VA's Office of Administration (OA) of the Presidential Memorial Certificate (PMC) program to the VA's Department of Veterans' Benefits (DVB) and of the Audio Visuals Service (AVS) to the Office of the Associate Deputy Administrator for Public and Consumer Affairs.

Background

Section 210(b) provides, in part, that the VA may not in any fiscal year implement certain administrative reorganizations unless the Administrator, not later than the date on which the President submits the budget for that year, provides a report containing a detailed plan and justification for the reorganization. A report on this proposed reorganization pursuant to this section was submitted to the Congress by the then-Acting Administrator of Veterans' Affairs on February 5, 1986.

The VA has advised that the reorganization would affect only personnel located at the VA Central Office in Washington, D.C., and that, following the reorganization, the components involved would continue to perform the same functions as they are now performing. Other than some minimal costs associated with a possible relocation of the units, there are no costs associated with the reorganization, and no FTEE savings are immediately expected to result.

The VA has also noted that the reorganization would result in an integration of the functional responsibilities involved into a more appropriate organization unit in each case. It would further consolidate the VA's public affairs and outreach activities in one organization and ensure a more integrated approach to the VA's activities in the public information area.

With respect to the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans (including the provisions of benefits and services through VA offices and facilities not directly affected by the reorganization), the VA advises that the provision of such benefits and services will not be affected.

Committee bill

After analysis of the VA's letter, the Committee has concluded that the VA has submitted what constitutes a sufficiently detailed plan and justification for this proposed reorganization and that the reorganization will serve to improve the operations of the VA's service and benefits system. Since, under the provisions of section 210(b)(2), the reorganization would not be permitted to be implemented prior to the beginning of fiscal year 1987, the Committee bill includes a statutory waiver of the required waiting period in order to permit the Administrator—effective upon enactment—to implement this reorganization prior to October 1.

Administrative Debt Collection by Offset of Benefits

Section 116 of the Committee bill, which is derived from section 301 of S. 2422 as introduced, would grant to the VA the authority to collect certain debts or overpayments by offset from payments of compensation or pension.

Background

Current law (section 3104 of title 38) prohibits concurrent payment of both military retired pay and VA compensation or pension. Veterans entitled to VA compensation or pension who are also military retirees must waive an amount of military retired pay equal to the compensation or pension which they are entitled to receive from the VA before the VA benefits may be paid. If the VA benefits paid to a military retiree equal or exceed the amount of his or her retired pay, the uniformed service will make no payments to the individual. In this case there is no mechanism for the uniformed service to collect administratively from the retiree by means of offset any overpayments of retired or retainer pay due from the retiree.

Military retirees may provide continuing income for their survivors after the retiree's death by participating in the Survivors Benefit Plan (SBP) or the Retired Serviceman's Family Protection Plan (RSFPP). Payments to these plans are normally deducted from the retiree's military retired pay. If a retiree participating in one of these plans has waived all of his or her military retired pay in order to receive VA benefits, the retiree must make SBP or RSFPP payments directly to the uniformed service. If payments are not made, an overpayment is created which will be collected from SBP or RSFPP payments due to the survivor following the death of the retiree.

In both cases the election to receive VA benefits instead of military retired pay can create a situation in which there is no satisfactory administrative mechanism to collect by means of offset a debt payable to the United States. Under current law (section 3101 of title 38), the VA is barred from withholding veterans' benefits to satisfy the claims of creditors.

Committee bill

The Committee believes it appropriate to provide a mechanism for the administrative collection of debts which may be uncollectible under current law. In testimony submitted for the May 20, 1986 hearing, the VA testified that this provision "would enable the efficient and equitable recovery of these targeted overpayments." The Committee bill, would in certain circumstances, authorize the uniformed services to request, and the VA to provide, collection by offset from the VA compensation or pension payments to military retirees of certain uncollected debts or overpayments. The authority provided by the Committee bill would be applied only to those veterans who are entitled to receive retired or retainer pay from one of the uniformed services but do not receive all or part of such pay because of payment of compensation or pension from the VA. The authority granted by the Committee bill would be limited to collection of debts resulting from overpayments of retired or retainer pay made by one of the uniformed services and unpaid payments due as a result of the veteran's participation in the SBP or RSFPP.

Before the uniformed service would be authorized to request that the VA collect the debt by means of an offset from a veteran's compensation or pension payments, the service would be required to attempt collection of the debt or payment and, if unsuccessful, determine that the debt is otherwise not collectible. The VA would be required to protect the due process rights of veterans by meeting the procedural requirements of section 3716 of title 31, United States Code, relating to the collection of debts by means of offset from payments due the debtor.

In the case of SBP and RSFPP, debts resulting from the failure of the retired servicemember to make required payments would, under current procedure, ultimately be collected from the SBP and RSFPP payments payble to the survivors of the servicemember following his or her death. Such a collection is both administratively complex and detrimental to the purpose of the plan, which is to provide for the survivors' support following the servicemember's death.

The Committee bill provides a mechanism for collection of these overpayments and debts from the individual responsible, the retiree.

TITLE II—HEALTH CARE

Part A—Health-Care Programs

Home Health Services

Section 201 of the Committee bill, which is derived from sections 3 and 4 of S. 2445, would define "home health services", as used in title 38, to include services furnished to a veteran in any setting in which the veteran is residing. This modification would provide the VA with the authority to provide home health services to veterans in places of residence other than VA facilities or the veteran's home. The Committee bill would also clarify the VA's existing authority to contract with non-VA facilities to furnish home health services. The Administrator would be required to submit to the Congress, not later than 6 months after the date of enactment, a report on the VA's current and proposed uses of these authorities.

Background

During this session of the 99th Congress, two specific questions have arisen as to the extent of the VA's authority to provide home health services. First, in the context of the VA's development of a proposal to provide community-based pyschiatric care to certain chronically mentally ill veterans and of the Committee's consideration of legislation to provide specific authority to do so (section 202 of the Committee bill, which was derived from section 4 of S. 2445), the VA General Counsel's office determined that the VA's authority under sections 601 (6) and (10), 603, and 613 of title 38 to provide home health services does not include the authority to provide home health services in any location other than the veteran's home. Because the provision of follow-up mental health treatment services is considered by mental health experts to be a critical component of any model of community-based care for individuals with chronic mental illness and because veterans participating in a program of community-based pyschiatric rehabilitative care often are not residing in a home per se but rather in a halfway house or other community-based facility, the Committee believes it is important to ensure that the VA has the specific authority to provide such follow-up care in any non-VA facility in which the veteran is residing notwithstanding the fact that the veteran is not residing at home.

The second issue of concern to the Committee regarding home health services related to the VA's authority under the agency's general home health services and contract authorities to provide, by contract, hospital-based home care services. The Committee bill includes a provision which reaffirms the VA's authority to provide such services on a contract basis. The VA's Hospital Based Home Care (HBHC) program provides medical, nursing, social, rehabilitation, and dietetic services under the supervision of a hospital-based multidisciplinary treatment team as follow-up to hospital care. During fiscal year 1985, 219,000 home visits were made by health professionals and 11,353 patients were treated by the 49 VA medical centers participating in this program.

During the past several years, the VA's HBHC program has received increased attention and support. In 1984, the VA's "Caring for the Older Veteran" report called for an increased reliance on this program and stated that it has "proven potential for maintaining the elderly individual with a chronic illness in the less expensive home setting, thus reducing the pressure on hospital bed capacity. Equally important, research and practice have indicated that home care can lead to a better medical result for many patients." (page 12)

In December 1985, the VA's Geriatrics and Gerontology Advisory Committee (GGAC) submitted to Congress a report which found that studies clearly demonstrate that chronically ill patients with long-term care needs, who are usually placed in a nursing home, can be maintained in the community by the HBHC team, and that HBHC can support these patients at a cost considerably less than the cost of nursing home care. The report stated (on page 1 of the Prologue) that "there appears sufficient cause to continue expansion of HBHC along with other similar non-institutional programs." With respect to the current and future operation of the VA's program, the GGAC had four specific recommendations: First, that the expansion and growth of HBHC be continued and that new models of HBHC be encouraged and developed; second, that the existing HBHC programs increase the number of mentally infirm patients in their workloads; third, that research in HBHC be encouraged and supported; and fourth, that the training of health care professionals of various disciplines be expanded and fostered in HBHC programs.

Most recently, the Administration also supported the continued use and expansion of this program. The fiscal year 1987 VA budget submission included a request for funding for an additional four HBHC programs which would bring the total number of in-house programs to 53. The submission also indicated that a legislative proposal providing specific authority to contract for HBHC would be submitted. In order to address these recommendations and proposals, section 3 of S. 2445 would have provided the VA with specific authority to contract for HBHC services.

Committee bill

Under the Committee bill, the VA would be authorized to provide home health services, including HBHC services, in any non-VA facilities in which the veteran resides, including nursing homes, halfway houses and other community-based facilities. (Structural improvements or alterations would not be included because although the VA is authorized to provide certain assistance in making such improvements, this kind of assistance would only be appropriate when the veteran is residing at home.) Although the Committee's consideration of the need for action relating to the definition of home health services began with and focused primarily on the needs of veterans with chronic mental illness disabilities, the Committee believes that the benefits of this authority should not be limited to one patient population only. Therefore, the change in the definition of home health services provided by the Committee bill would apply to all veterans eligible for home health services.

In addition, the Committee bill includes a provision which reaffirms expressly the VA's authority to contract for home health services, including HBHC services, in situations in which the VA cannot provide such services directly. Under current law, these services can be provided either in connection with the treatment of a service-connected disability or of any disability of a veteran with a service-connected disability rated at 50 percent or greater, or on a post-hospital-care basis (generally for up to 1 year after discharge).

With respect to the overall support for the continued use and expansion of the home health services program, the Committee endorses the VA's development and use of its authority to contract for home health services, particularly HBHC services. Although the VA is continuing to provide home health services, the Committee believes that those eligible veterans receiving care at VA facilities where no such program exists (more than two-thirds of all VA medical centers) or who live geographically isolated from any VA medical center should be able, when medically appropriate, to benefit from home health services.

In order to encourage the VA's use of its existing authorities, the new authority provided by the Committee bill, and the reaffirmed contract authority, the Administrator would be required to submit a report to Congress on the home health services program 6 months after the date of enactment.

Treatment and Rehabilitation for Chronically Mentally Ill Veterans

Section 202 of the Committee bill, which is derived from section 4 of S. 2445, would provide the Administrator with the authority to contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for certain veterans with chronic mental illness disabilities. The purpose of this authority is to enable the VA to provide, when medically appropriate, community-based psychiatric services to veterans already receiving VA hospital, domiciliary, or nursing home care for a chronic mental illness or to veterans with service-connected disabilities rated 50-percent or more who have a chronic mental illness. In providing such services, the Administrator would accord a priority in the following order: (1) to any veteran with a service-connected chronic mental illness disability; (2) to any veteran with a service-connected disability; and (3) to any veteran "unable to defray the expenses of necessary care" under section 622(a)(1) of title 38. The Administrator would be required to submit to the Congress, not later than 3 years after the date of enactment, a report on the implementation of these authorities.

Background

Section 4 of S. 2445 as introduced, was derived from and is similar to section 102 of S. 876 as reported by the Committee on July 8, 1985, and passed by the Senate as part of an amendment to H.R. 505 on July 30, 1985. The provision was not agreed to by the House Committee and, therefore, was not included in H.R. 505, which was enacted as Public Law 99-166.

The Committee continues to believe that providing the VA with the authority to contract for certain community-based psychiatric services would serve to enhance the VA's programs for veterans with psychiatric disabilities by increasing the VA's options to provide the most appropriate kind and level of care in the least restrictive environment. In addition to this approach being cost-effective, the Committee believes that providing an alternative to institutional care, when medically appropriate, is the most humane option for these veterans.

Consideration of this provision continues to be timely. Since the Committee's consideration of this provision last year, the VA has begun developing a proposal for a pilot program for community-based treatment for veterans with chronic mental illness disabilities. The VA intends to implement this program on a pilot program basis in Region I, which includes New England, New York, and Puerto Rico. However, according to the informal views of the VA's General Counsel, the VA does not have the authority to provide a program of the scope envisioned by the VA and therefore believes that in order to implement the pilot program, it needs additional authority to contract for community-based psychiatric residential care.

The Committee's intent in providing the VA with the specific authority to contract for such care would be to ensure that the VA could provide the full range of medical and rehabilitative services necessary for the full implementation of a comprehensive program of community-based care for eligible chronically mentally ill veterans. The Committee stresses that this program is not intended to replace or substitute generally for the VA's inpatient, outpatient, day hospital, or day treatment programs, but is instead intended to fill a gap in the VA's otherwise comprehensive continuum of psychiatric care services.

Committee bill

In addition to providing contract authority for community-based psychiatric care, section 202 of the Committee bill would expressly require the VA to designate a VA health-care employee to serve as case manager for each veteran provided care as part of this program. Section 201 of the Committee bill would provide the VA with the authority to provide follow-up mental health services, such as crisis intervention teams, and other services to maintain and support veterans in their communities, in any setting, other than a VA facility, where the veteran is residing. Under current law, the VA has the authority to provide such services in a veteran's home. The Committee believes that the VA's health-care system, because of its national scope and comprehensive nature, will provide a suitable and appropriate structure to implement such a program. The American Psychiatric Association and the National Mental Health Association have indicated their support for the provision. The Committee notes that numerous studies have shown that it is feasible to treat chronically disabled psychiatric patients in the community and that with such treatment, these patients have had a reduced need to be hospitalized, have attained more autonomous living and employment situations, and have experienced enhanced social adjustment.

Respite Care Pilot Program

Section 203 of the Committee bill, which is derived from section 7 of S. 2388 and section 2 of S. 2445, would authorize the VA to carry out a 3-year pilot program (in fiscal years 1987 through 1989) of respite care.

Background

The ultimate goal of respite care, which is a relatively new form of care, is to help maintain individuals with serious chronic illnesses in their homes as long as possible before having to resort to institutional care. It is widely agreed that, where medically feasible, maintaining a person at home is better for the person's overall health status, and a far more efficient and cost-effective way to meet individuals' health-care needs. Very often a key to the patient being able to remain at home is the regular availability of a spouse, child, or other relative or close friend of the patient to provide meals, homemaker, and other personal-care services that, combined with outpatient treatment, home health services, or other sources of medical attention, meet the patient's full range of needs. Respite care, by providing scheduled relief for the primary provider or providers of personal care, makes it possible to maintain the person in need of care at home for a longer period of time or indefinitely.

The proposal in the Committee bill is similar to legislation developed by the VA and forwarded to the Congress last year. The House Committee on Veterans' Affairs reported and the House last year passed such legislation in H.R. 505, but it was not possible to reach an agreement on that proposal in the House-Senate compromise on that measure which was enacted as Public Law 99-166.

The Committee notes that the VA has since submitted a report, entitled "Care of the Terminally Ill Veteran Patient", pursuant to section 201 of Public Law 98-528. That report noted that, as part of the agency's efforts to meet the needs of terminally ill patients, a significant percentage of VA facilities provided some type of respite care. The report noted that "[r]espite care, an integral part of the hospice movement, was frequently identified by respondents [VA facilities] in other portions of the survey as a desired and important adjunct to the care of the terminally ill." (page A-14)

Committee bill

Under the Committee bill, the VA would be authorized to provide periodically, for short periods of time, hospital or nursing home care to compensable service-connected veterans who are otherwise receiving care while living at home. The bill also requires the VA, in the context of using this authority, to carry out a study of the health efficacy and cost-effectiveness of furnishing such care and report on the results of that study to the Congressional Committees on Veterans' Affairs.

The Committee bill contains a provision designed to ensure that the pilot program test of this type of care does not substantially disrupt the conduct of other programs. It should not be construed, however, as indicating any lack of support on the Committee's part for respite care or as establishing an insuperable barrier to the exercise of the authority. The Committee recognizes the great potential that this form of care has for enabling individuals to remain in their homes for as long as possible and expects the VA to utilize the authority under this pilot program to the maximum extent feasible consistent with the limitation.

The Committee also stresses that because respite care would generally be available utilizing only resources that would otherwise not be used, it should result in insignificant, if any, new cost to the VA—an important consideration in this time of very tight budgets for the VA health-care system. Also, because of the emphasis on service-connected veterans, any shift in resources that does occur would benefit those veterans who are owed the greatest obligation by the VA.

Finally, the Committee notes that, in proposing explicit authority for respite care for service-connected disabled veterans, it does not wish to imply that the activities described in the VA report noted above were carried out without authority.

Pilot Program of Noninstitutional Alternatives to Institutional Care

Section 204 of the Committee bill, which is derived from section 8 of S. 2388 and section 3 of S. 2445, would require the VA to conduct, from January 1, 1987, through December 31, 1990, a 4-year pilot program at not less than five nor more than ten demonstration project sites to evaluate noninstitutional alternatives to institutional care.

Background

Section 8 of S. 2388 as introduced, was, except for date changes, virtually identical to section 103 of S. 876 as passed by the Senate on July 30, 1985. That provision—which was derived from section 2 of S. 876 as introduced by the Committee's Chairman, Senator Murkowski, on April 3, 1985, and section 9 of S. 6, legislation introduced by the Committee's ranking minority member, Senator Cranston, on January 3, 1985—was considered and passed by the Senate as part of an amendment to H.R. 505 on July 30, 1985. Unfortunately, the House and Senate Committees were not able to reach agreement on this pilot program and the provision was not included in the measure that was ultimately enacted as Public Law 99-166.

The Committee is again acting on this provision because it remains convinced that, in light of current developments in health services which enable more individuals to receive needed care without being institutionalized and of the rapid increase in the number of veterans age 65 and older who may be seeking care from the VA in the years ahead, the VA must take steps to develop new approaches to addressing the health-care needs of veteran patients. By 1990, there will be 7.2 million veterans in this age group and there will be 9 million veterans age 65 or older by the year 2000. The kinds of new VA approaches this legislation envisions must include an emphasis on increased interaction with community entities that provide health and health-related services if the VA is to get the maximum health-care benefit out of every dollar spent. There also must be a greater emphasis on reducing the need for institutional care for veterans.

Further background information regarding the approach proposed in this section of the Committee bill is provided in the Committee's report on S. 876 last year (S. Rept. No. 99-101, pages 37-41).

With specific reference to the goal of avoiding institutional care and of providing services in an individual's home, the Committee notes that the VA, in its 1984 report, "Caring for the Older Veteran", set forth a number of objectives that were central to the agency's strategies for meeting the needs of the older veteran and that the first of these was:

> To sustain older individuals' independence, comfort, and contentment in their own home environment for as long as possible, providing supportive services to do so.

Clearly, this proposed pilot program would help reach that goal.

On the issue of increased VA-community interaction and cooperation, the Committee is convinced that the VA must make greater use of community resources which help to maintain individuals in their home—such as homemaker, personal-care, communal or at-home nutrition, and transportation-assistance services—in order for the agency to respond in a reasonably adequate way to the growing demand for care that it is facing and will continue to face as the veteran population ages so rapidly between now and the end of the century.

Section 3 of S. 2445 would have addressed these concerns by providing the VA with the general authority to provide noninstitutional care services to certain veterans. Similar to the intent underlying section 103 of last year's Committee bill, S. 876 as passed by the Senate, the intent was to provide the VA with increased flexibility to make maximum use of alternatives to institutional care.

Committee bill

Under the Committee bill, the Administrator would be required to conduct a pilot program through which the VA would provide certain veterans with medical, rehabilitative, and other health services and, by contract with non-VA entities, with health-related services.

These health and health-related services would be provided in noninstitutional settings—such as the veteran's home or a personal-care or board-and-care home—with the goal of being able to avoid institutional care, such as in a hospital, nursing home, or domiciliary facility, for the participants in the program.

Participation in the program would be limited to veterans eligible for and otherwise in need of VA hospital, nursing home, or domiciliary care, and priority for care and services through the pilot program would be accorded to veterans with service-connected disabilities, to veterans who are age 65 or older, to veterans who are totally and permanently disabled, to veterans who, by reason of blindness in both eyes, have only light perception or are in need of regular aid and attendance, and to veterans who are suffering from one of the forms of dementia, including Alzheimer's disease.

In response to concerns raised by the VA at the Committee's May 20 hearing, a number of specific elements in the provision as passed by the Senate last year and as introduced this year have been eliminated so as to give the VA greater flexibility in carrying out the pilot program. In this regard, the provision in the Committee bill calls for the pilot program to be carried out at between five and ten sites, rather than setting a specific number of sites, no longer contains a requirement that the pilot program involve geriatric evaluation units at a specific number of sites, no longer specifies what "case management services" entail in the context of the pilot program, and is significantly less directive regarding the content of the mandated report on the results of the pilot program. Nevertheless, it is the Committee's intention that these deleted provisions should serve as general guides to the VA in implementing the pilot program.

The Committee notes that since 1980 DM&S has conducted an independent living program to provide a range and combination of services which would enable disabled veterans to live and function at their maximum level of independence within the community. The program uses both VA and community resources to provide services to veterans, including veterans with spinal cord injuries, aged veterans, veterans with neurological and psychiatric impairments, and others. Services include, among others, transitional living, activities of daily living, independent living skills, and counseling. (The Committee bill (section 103) would also extend for three years a pilot program of independent living services established by Public Law 96-466. The Committee urges coordination between the Department of Veterans' Benefits and DM&S in the continued implementation of these programs and, when appropriate, linking the services under these two programs.) The provision of health-related services provided in noninstitutional settings under the pilot program which would be established by section 204 of the Committee bill is consistent with the mission and goals of the independent living services program and other VA ambulatory-care programs such as adult day health care. With respect to the adult day health care program, the VA requires that any such program provided to veterans under a contract arrangement include rehabilitation services, defined by VA regulation (51 Fed. Reg. 26,027, July 18, 1986) to include assistance for daily living (including bathing, feeding, toileting, ambulation, and transferring), case management, nutrition services, recreation therapy, transportation, and maintenance of client records. The Committee believes that the noninstitutional care pilot program would provide a valuable addition to the VA's continuum of care.

With reference to the cost of this pilot program, the bill limits the total cost over the life of the program to 60 percent of the cost that would otherwise have been incurred by the VA if the veterans participating in the program had been furnished nursing home care instead of the noninstitutional services provided under the program. Although the Committee bill does not contain, as did S. 876 as reported last year, a provision expressly requiring that the pilot program be carried out through the use of funds that would otherwise be used for the provision of more costly intermediate care, it remains the Committee's intention that this be done and that the funds saved by this pilot program be applied to care for more veterans than would be served in its absence.

Services to Overcome Service-Connected Disability Affecting Procreation

Section 205 of the Committee bill, which is derived from section 3 of S. 2388, would authorize the VA, in the case of veterans who request such services after September 30, 1986, and prior to October 1, 1989, to furnish services to help a veteran or a veteran's spouse achieve pregnancy in cases in which the veteran's service-connected disability causes the veteran's inability to procreate. The VA would be required to submit, not later than February 1, 1989, a report on the experience under this authority for the period prior to October 1, 1988.

Background

The VA does not believe that it has legal authority to provide services, such as artificial insemination or in vitro fertilization, to help overcome a service-connected disability of a veteran which makes the veteran unable to procreate. Although the Committee does not believe that the VA's legal interpretation of its existing authority is necessarily correct, it is clear that the agency will adhere to that viewpoint absent legislation to the contrary. Hence, this provision in the Committee bill is designed to remove any doubts that may exist on this issue.

The Committee notes that the VA opposed this provision in its testimony submitted at the Committee's May 20 hearing. In that testimony, the VA noted that "far-reaching philosophical and practical questions regarding the appropriateness of any VA medical assistance to achieve pregnancy in a veteran or a veteran's spouse have vexed [the VA]." The Committee appreciates the fact that the entire field of medicine dealing with fertility problems and with helping to achieve procreation in individuals with such problems is relatively new and evolving. Although the Committee does not see the newness of the field as an appropriate basis for the VA's not becoming involved in furnishing services to those veterans whose service-connected conditions have caused their procreative inability, it has limited the exercise of this authority to a 3-year period so as to have the opportunity to see what problems may be associated with it.

Committee bill

The new authority proposed under the Committee bill would be limited to cases in which a veteran's service-connected condition causes the veteran to be unable to procreate. It will, therefore, be targeted on those veterans as to whom the VA has always had the greatest responsibility—those disabled in service. Because of this targeted focus, the Committee anticipates that there will be a relatively limited number of veterans who would be eligible for and wish to receive these new services. In addition, the Committee expects that the VA will utilize this authority judiciously and only provide the services in question in cases in which it is clear that the inability to procreate is a function of the veteran's service-connected disability and is not the result of some other physical or psychological cause. The Committee intends the VA to act primarily as the source of services to correct an identified, diagnosed problem and not to function as a resource for determining the cause of infertility in the absence of a medical basis for suspecting that the cause is a service-connected disability. Thus, it is not anticipated that there will be significant new costs associated with this proposed change in the law.

However, to the extent that there are new costs associated with this new authority, it is the Committee's intention that they would be absorbed through a shift of funds from lower priority expenditures under the VA's medical care account, $9.2 billion in FY 1986, and that, as a result, no new appropriations would be provided in connection with the new authority. The end result of such a shift in resources would be an increase in services available for the treatment of service-connected disabilities.

With specific reference to the practical questions noted by the VA at the Committee's May 20 hearing, the Committee is confident that, should this authority be enacted, the VA will be able through the development of appropriate guidelines to set forth the conditions under which the services will be furnished. In this regard, the Committee notes the testimony of the Disabled American Veterans at the May 20 hearing, that the DAV does "not envision the VA to be required to provide obstetric services, prenatal or postnatal care in conjunction with any successfully achieved pregnancy." The Committee agrees with this analysis.

Finally, with reference to the overall issue of infertility prevention and treatment, the Committee notes that the Office of Technology Assessment recently has undertaken an 18-month project to study the causes of infertility and approaches to prevention. This study, requested by Chairman Murkowski in a September 13, 1985, letter (reprinted below), will focus, in part, on the special reproductive problems of veterans. The Committee looks forward to the completion of this OTA project and anticipates that it may yield information useful to the Committee and to the VA as the agency seeks to assist veterans with fertility problems.

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United States Senate

COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, DC 20510

September 13, 1985

Dr. John H. Gibbons
Director
Office of Technology Assessment
U.S. Congress
Washington, D.C. 20510

Dear Dr. Gibbons:

The Committee on Veterans' Affairs would be pleased if the Office of Technology Assessment (OTA) were to undertake a study of technologies to treat human infertility, including artificial insemination (by husband and by donor), in vitro fertilization, and embryo transfer. Infertility affects one in six American couples. Each year approximately one million couples seek assistance from doctors and clinics for problems relating to infertility. These problems are particularly relevant to the veteran whose reproductive ability may have been adversely affected due to a service-connected disability. In light of the the Committee's special interest in the overall health of veterans, (including their reproductive health), I support OTA's efforts to conduct such a study which would describe existing and anticipated technologies for assisting human reproduction, and would address, among others, the following issues.

1. What methods are available to determine infertility?

o To what extent can the medical problem resulting in an individual's infertility be determined using currently available technology, and to what extent is infertility unexplainable? How often can an individual's infertility be ascribed to an identifiable precipitating factor? What is the approximate cost and time frame for a "work-up" or series of tests to determine the cause of infertility?

o The Committee is especially interested in knowing whether a medical determination could be made as to whether or not a given case of infertility was service-connected. For what types of infertility is identification of the proximate cause easiest or most difficult for purposes of determining service connection? What types of infertility are most likely to be service-connected?

2. To what extent are those diagnostic methods reliable?

o How often is an initial diagnosis of infertility correct? Is infertility often temporary or transitory in nature? How can cases of temporary infertility be identified so that invasive, expensive, and anxiety-provoking treatments are not used? To what extent are psychological problems the cause of sexual dysfunction? Can counseling be an effective treatment in those instances?

3. How successful are these technologies?

o What is the likelihood of a successful pregnancy (i.e., resulting in a live, healthy baby) resulting from their use? Is it the case that the first attempt at this procedure is usually unsuccessful?

4. How available are these technologies in the United States?

o To what extent are facilities available in the private sector to treat veterans who have infertility problems? What services do these facilities provide? What types of equipment and personnel would be needed if the VA provided this treatment in its own facilities? What is the actual cost of the in vitro fertilization procedure?

o What would be the advantages and disadvantages of providing infertility treatment in VA facilities? What would be the probable cost to the Government if infertility treatment was provided as a medical benefit to veterans with service-connected infertility? Are private health insurance companies providing reimbursement for these treatments?

5. To what extent is infertility a problem among veterans?

o How many veterans are infertile? How many veterans have service-connected infertility? Of those, how many of these cases are due to mechanical dysfunction (impotence due to organic causes)? How many veterans are unable to have sexual intercourse? What are the major reasons for this inability and what treatment and/or technologies exist to address this dysfunction? To what extent are psychological problems (such as Post Traumatic Stress Disorder) the cause of sexual dysfunction in veterans? What are the pros and cons of the VA providing such treatment for those veterans? What are the implications of such a procedures and what are the estimated costs?

6. What are the medical, ethical and cost implications of providing such services to veterans with service-connected infertility?

o For example, in the case where a female veteran or wife of a service-connected infertile veteran, was unable to become pregnant or to carry a child, should the VA be responsible for the cost of a surrogate mother? If such a veteran was unable to have a child, would it seem reasonable for the VA to assist the veteran in the cost of adopting a child? In necessary, under what circumstances would sperm be purchased from a doner or a sperm bank? Are sperm expensive to purchase?

7. How are methods of assisting human reproduction perceived by the medical community, Federal and State policy makers, and society in general?

o Are the new in vitro fertilization and embryo transfer technologies generally accepted medical therapies, or are they still considered experimental? What are the implications of these perceptions?

I certainly appreciate your assistance in answering the aforementioned questions. I look forward to receiving the results of this most worthwhile project.

Sincerely,

Frank H. Murkowski

Frank H. Murkowski
Chairman

Continuation of Certain Counseling Services for a Deceased Veteran's Family Members

Section 206 of the Committee bill, which is derived from section 4 of S. 2388, would authorize the VA to provide bereavement counseling to certain deceased veterans' survivors who had been receiving VA services at the time of the veteran's death.

Background

Under current law, the VA provides mental health counseling and certain other services to the family members of a veteran when doing so is necessary for the effective treatment of the veteran. This authority is used most often in connection with veterans receiving general mental health services, with veterans receiving readjustment counseling through the VA's Vet Center program, and with various VA programs which provide care to terminally ill veterans. The Committee has received indications that providing family counseling in cases like these has been of great importance in the agency's efforts to assist the veterans who are receiving care.

Under current law, family members lose their eligibility for further counseling at the time of the veteran's death, the very time when they may be in the greatest need of assistance from a professional who knew the veteran and is familiar with the family members' relationships with the veteran and who has established rapport and a trusting relationship with them.

Committee bill

To correct this situation so that family members are authorized to receive bereavement counseling from someone with whom they have already developed a supportive relationship, the Committee bill would authorize the VA to continue to furnish, for up to 6 months following the veteran's death, appropriate mental health assistance, in the form of such counseling, to family members who were receiving it before the death of the veteran when the veteran's death was from unexpected causes or occurred while the veteran was participating in a VA hospice program.

Eligibility for Domiciliary Care

Section 207 of the Committee bill, which is derived from section 5 of S. 2388, would revise the existing authority for VA domiciliary care so as to make it consistent with current VA philosophy and practice.

Background

Under current law, two general categories of veterans are eligible for domiciliary care: In the first category are service-connected disabled veterans who are suffering from a permanent disability or tuberculosis or a neuropsychiatric ailment and who are incapacitated from earning a living and have no adequate means of support; in the second, more general category are veterans who are in need of domiciliary care and unable to defray the cost of such care. The Committee believes that current law is confusing as well as inconsistent with current VA philosophy and practice. It appears to establish more stringent criteria for a veteran with a service-connected disability than one without. However, section 622(g)(2) of title 38, as reorganized but not altered by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99-272, for these purposes, automatically accords the status of "inability to defray necessary expenses" to a veteran with a service-connected disability. The first criterion thus appears meaningless.

The issue of how eligibility for domiciliary care should be stated in the law arose last year in the context of the reconciliation legislation, title XIX of COBRA, which revised eligibility criteria for VA hospital, nursing home, and outpatient care. As noted in the explanatory statement that accompanied the conference report on the reconciliation legislation—H. Rept. No. 99-453, page 695—despite agreement among the conferees that the existing eligibility criteria for domiciliary care should be revised, it was not possible to reach a final agreement with reference to domiciliary care at that time and the final legislation left the eligibility unchanged. In reaching that result, however, the conferees noted that they were "not expressing satisfaction with the status quo" and also noted that "[b]oth Committees on Veterans' Affairs plan to hold hearings [in 1986] to consider appropriate revisions to the eligibility for domiciliary care".

Committee bill

The provision in the Committee bill is the result of the Committee's further consideration of this issue. Under the bill, the VA would be authorized to provide domiciliary care to veterans who are in need of such care for the purpose of receiving treatment or rehabilitation and who either have a service-connected disability or are incapacitated from earning a living and have no adequate means of support. The Committee notes that, during the Committee's May 20 hearing, the VA supported the approach now adopted by the Committee.

Medical Care for Veterans in the Republic of the Philippines

Section 208 of the Committee bill, which is derived from section 10 of S. 2388, would extend for 3 years, through fiscal year 1989, two existing authorities relating to health care for veterans in the Republic of the Philippines.

Background

Pursuant to the first authority, the VA may contract with the Veterans Memorial Medical Center (VMMC) in Manila for certain care and treatment of United States veterans in the Philippines. The second authority permits the VA to make grants of up to $50,000 annually to the VMMC to assist in the replacement and upgrading of equipment there and the rehabilitation of the physical plant and facilities.

Committee bill

Because the VA has been unable to account for the use of all of the grant funds provided to the VMMC in recent years, the Committee bill would modify the authority for the grants so as to specify that the grants are to be made semiannually, with one-half of the amount of the grant being made in the first half of the fiscal year and one-half in the second half of the year. Further, the provision in the Committee bill would require the VA, prior to providing any additional funds after the conclusion of any such half-year period, to provide the Congressional Veterans' Affairs Committees with a report on the use and expenditure of the grant funds provided in the most recent 6-month period. The Committee expects that this monitoring and reporting requirement should improve the VA's ability to monitor and account for the use of the grant funds.

Medicaid Treatment of Per Diem Payments to State Veterans' Homes

Section 209 of the Committee bill, which is derived from S. 1536, would preclude per diem payments made by the VA to State Veterans' Homes under section 641 of title 38 from being considered a third-party liability under the Medicaid program.

Background

Under the State Home per diem payment program authorized by section 641 of title 38, VA provides funds directly to State Homes to help meet the cost of care for eligible veterans in such homes. Per diem payments under this program are made at set rates for domiciliary, nursing home, and hospital care, but may not exceed one-half the cost of the veterans' care in a State Home.

State Homes are established through legislation enacted by State legislatures, which also determine how the States will fund their share of the Homes' operation. Generally, that support is a direct appropriation from the State. Under such an arrangement, a Home's revenues generally consist of State appropriations and the VA per diem payments. Legislatures may, however, choose to fund the Home's operation through the Medicaid program. Under such an arrangement—currently carried out in four States—the Home's revenues would essentially consist of Medicaid and VA per diem payments.

Under the Medicaid program (authorized under title 19 of the Social Security Act (42 U.S.C. 1396–1396p)), payments are made in connection with the care of certain low-income individuals. The Federal and participating State governments share the program's costs by means of a variable matching formula depending, within certain limits, on per capita income.

Section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396(a)(25)) requires that, in determining the extent of Medicaid assistance payable in an individual case, the State must consider whether there exists any "third-party" liability for the individual's care and services arising out of injury, disease, or disability and such third-party liability is to be considered "as a resource of the individual on whose behalf the care and services are made available." If a State discovers that a third party is in fact liable for some portion of a Medicaid patient's care and that it can reasonably expect to recover an amount exceeding the costs of recovery, the State must seek reimbursement from the third party to the extent of the third-party's liability.

The Office of the General Counsel of the Department of Health and Human Services—in a report released by then-HHS Secretary Heckler on May 9, 1985—and the VA's General Counsel—in an August 3, 1984, legal memorandum—have both expressed the view that VA per diem payments to State Homes must be treated as a third-party liability for purposes of Medicaid. As a result of these views, the State agencies which are entrusted with the responsibility of administering Medicaid are forced to reduce the Medicaid payments to the Home by an amount equal to the VA per diem payments made on behalf of the Medicaid-eligible veterans residing in the Home.

Committee bill

The Committee bill would amend title 38 so as to preclude per diem payments from being considered a third-party liability under Medicaid and thus avoid the resultant decrease in revenues available to the State Home. In the Committee's view, the VA per diem payments should increase the resources available for furnishing of care to eligible veterans—not simply reduce the amount of Medicaid payments to the Homes.

The Committee notes that only four States—Colorado, New York, Maine, and Wisconsin—presently utilize the Medicaid program to fund a portion of their share of their Homes' operations. In 1985, the Congressional Budget Office estimated that enactment of section 209 would increase Federal Medicaid program costs by about $2 million annually. The States' costs would increase by a similar amount.

Part B—Health-Care Administration

Enforcement of State and Local Traffic Laws by Veterans' Administration Police Officers

Section 211 of the Committee bill, which is derived from section 2 of S. 2388, would amend the provisions of title 38 setting forth what laws and regulations are to be enforced by VA police officers on VA property. The bill would give the VA the authority to enter into agreements with State and local governments pursuant to which VA police officers would be able to enforce State and local traffic laws by issuing citations for any violations of such laws occurring on VA property.

Background

This amendment is based on legislation requested by the Administration in a March 10, 1986, transmittal letter from the Administrator of Veterans' Affairs to the President of the Senate.

Under current law and practice, the VA can enforce traffic measures on VA property only issuing regulations relating to such matters and then securing the agreement of the appropriate U.S. District Court (with jurisdiction over the geographic area concerned) to issue rules of court incorporating the VA regulations. Once that has occurred, it becomes possible to refer violations of the VA regulations to the local office of the U.S. Attorney for further action. The VA has indicated that, although this process has been effective in some areas of the country, there are many regions in which the agency has not been able to secure the cooperation needed for enforcement through the Federal courts.

Committee bill

The change proposed in the Committee bill would remedy this problem by providing the VA with an option for enforcement through State and local courts, while retaining the authority to attempt to enforce traffic laws in Federal courts.

Ionizing Radiation Registry

Section 212 of the Committee bill, which is derived from section 8 of S. 2445, would require the Administrator to establish and maintain an Ionizing Radiation Registry containing medical, disability claims, and dose estimate information concerning veterans who were exposed to ionizing radiation during their military service.

Background

The Committee has a long-standing interest in issues relating to veterans' exposure to ionizing radiation. Most recently, the Committee held hearings on November 14 and December 11, 1985, on these issues. In preparing for the hearings, the Committee requested certain information from the VA on, among other things, disability claims and health status data on veterans exposed to ionizing radiation. It then came to the Committee's attention that no such data existed and that the VA was unable to address the Committee's questions.

Section 8 of S. 2445 as introduced would have required the VA to establish an Ionizing Radiation Registry. In testimony presented to the Committee during its May 20 hearing, the VA recommended "that as an alternative to the registry proposed in this bill, the VA develop a more limited registry which would, in effect, permit the VA greater access to the information which is already available". To date, the VA has not provided the Committee with any specific information as to the proposed substance of or plans to develop such an alternative.

During that hearing, the major veterans' service organizations in general expressed their support for the provision. As a result of the testimony received on the provision and because of the Committee's concern that there is no adequate centralized data source of information on veterans exposed to ionizing radiation, the provision was modified and included in the Committee bill.

Committee bill

Under the Committee bill, the Administrator would be required, not later than 180 days after enactment, to establish and maintain an Ionizing Radiation Registry. This Registry would contain the names of veterans who were exposed to ionizing radiation during U.S. nuclear weapons testing or during the American occupation of Hiroshima or Nagasaki following World War II and who, after the date of enactment of the Committee bill, request health care from the VA or file a VA compensation claim based on a disability that may be associated with exposure to ionizing radiation or whose survivors file a claim for DIC benefits where the veteran's death may have resulted from such exposure. The Registry would also contain medical, disability claim, and dose estimate information for each of these veterans, and a statement describing any birth defects which exist in the natural children of any of these veterans to the extent the veteran or dependent voluntarily provides information. The VA would also be required to compile and consolidate in the Registry relevant information maintained by the VA and the Defense Nuclear Agency of the Department of Defense.

It is the intent of the Committee that the VA have a data base of information and that the data collected be aggregated. This capability would assist the VA in efforts to identify health trends and to provide specified information on, among other things, the occurrence of specified illnesses or disabilities among Registry veterans (although the Committee recognizes that this information cannot be generalized to the population of exposed veterans as a whole) and the extent to which claims for possible radiation-related disabilities are approved by the VA.

Authority to Waive Certain Requirements for VA Psychologists

Section 213 of the Committee bill, which is derived from section 5 of S. 2445, would amend section 4105(a) of title 38, to provide the VA with the authority to waive the licensure or internship requirements, or both, for certain research psychologists. The purpose of this provision is to provide the VA with increased flexibility to recruit and retain such research psychologists.

Background

Under current law, VA psychologists are required to have a doctoral degree and during the course of preparing for the degree must have completed a course of academic study in psychology and an internship. In addition, a VA psychologist must be licensed or certified as a psychologist in a State. However, the Administrator has the authority to waive the licensure or certification requirement under certain circumstances. Section 5 of S. 2445 would have provided the VA with the authority to waive the licensure requirements for a VA research psychologist provided that the psychologist did not provide any direct clinical care within the VA.

During the Committee's May 20 hearing, the VA expressed its support for the intent of the provision in S. 2445 and also recommended that authority be granted to waive the internship requirement for such psychologists and that the VA be authorized to hire such research psychologists using only term appointments lasting for as long as their research would continue.

Committee bill

The Committee agreed with the VA that, in the cases of psychologists who are conducting research and who have no clinical practice responsibilities, the internship could also be waived without any adverse effect on patient care. Thus, under the Committee bill, section 4105(a) would provide the Administrator with the authority to waive the licensure or internship requirement, or both, in order to hire psychologists who are to have no direct patient-care responsibilities. The Committee bill does not include a provision addressing the VA recommendation that the VA be authorized to hire research psychologists using only term appointments because it is the Committee's understanding that the VA already has the authority under section 4114 of title 38 to hire such personnel on a temporary full-time basis and that authority should be sufficient to meet the VA's objectives in this area.

Requirement for Medicare Hospitals to Participate in Veterans' Administration Contract Health-Care Program

Section 214 of the Committee bill, which is derived from S. 2174 (legislation requested by the Administration), would require non-Federal hospitals receiving Medicare payments to accept as payment for VA fee-basis patients amounts to be determined by the Secretary of Health and Human Services (HHS) and the Administrator of Veterans' Affairs.

Background

On July 23, 1985, the VA submitted proposed legislation to amend title 38 to require that non-Federal providers of hospital care and services receiving direct payment of Medicare funds for services to Medicare beneficiaries provide similar services to VA beneficiaries under similar VA payment policies. A provision based on this legislation was incorporated into section 10024 of H.R. 3500, the proposed "Omnibus Budget Reconciliation Act of 1985" as reported by the House Budget Committee (H. Rept. No. 99-300) and passed by the House on October 24, 1985. During the House and Senate conference on the reconciliation legislation, certain concerns were raised concerning possible implementation difficulties, including questions related to the complexities involved in determining Medicare payments, especially for capital costs, and the provision was not included in the conference agreement that was subsequently enacted as Public Law 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

The Committee considered these issues during its May 20 hearing on issues relating to VA benefits and health care. The VA was strongly supportive of the measure and in general the major veterans' service organizations expressed support for S. 2174. After a review of the testimony, and following a review of the COBRA provisions requiring Medicare—participating hospitals to participate in the CHAMPUS and CHAMPVA programs and to accept payment made under both programs as payment in full, the Committee made certain modifications to S. 2174. These changes were designed primarily to require that the regulations implementing this provision be developed jointly by the Secretary of HHS and the Administrator, which should help to ensure that the provision can be implemented successfully.

Committee bill

The Committee bill would amend section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) to require the Administrator of Veterans' Affairs and the Secretary of Health and Human Services to establish, by joint regulations, a fee schedule whereby all non-

Federal hospitals which receive Medicare payments would be required to accept as payment for VA fee-basis patients the rate established by the aforementioned regulations. The authority to remove a provider from eligibility to receive Medicare payments would reside with the Secretary. The Committee intends for the Administrator to identify hospitals which fail to meet the new additional condition of participation in the VA fee-basis program and to convey that information to the Secretary for appropriate action. The Committee has consulted with the Finance Committee staff which has expressed no objection to this provision as long as it is placed in the Social Security Act. The Committee notes that this approach is modeled on the COBRA provision relating to DOD programs.

The Secretary of Health and Human Services would be required to submit to Congress periodically a report on the number of hospitals that have failed to renew, or that have terminated, their Medicare agreements with the Department of Health and Human Services as a result of this new requirement.

The VA would be required to report to the House and Senate Veterans' Affairs Committees by April 1, 1987, on the implementation of this provision. In addition, the VA would be required to notify the Committee when a hospital fails to renew or terminate a contract as described above.

The provision would apply to inpatient hospital services provided pursuant to admissions to hospitals occurring on or after January 1, 1987.

Organization of the Department of Medicine and Surgery

Section 215 of the Committee bill would amend section 4103 of title 38, relating to the organization of the Office of the Chief Medical Director (CMD), so as to establish one new position in that office, provide new flexibility in the appointment of individuals to other positions in the CMD's office, and to make various technical changes in the section.

Committee bill

This section of the Committee bill is derived in part from S. 2172 as introduced by Chairman Murkowski on March 11 at the request of the Administration. The provision derived from that bill would establish a second Associate Deputy Chief Medical Director (ADCMD) as an assistant to the Chief Medical Director (CMD) and the Deputy CMD. The establishment of this position would enable the VA to carry out fully a reorganization of the CMD's office which was first proposed last year. As part of that reorganization, the former, single ADCMD position would be divided into two positions—an ADCMD for Operations, responsible for overseeing current operations of DM&S (currently this responsibility is carried out by a Director of Operations), and an ADCMD for Program Development and Planning, responsible for overseeing planning and program management matters.

A second principal category of changes which would be made by this provision would authorize the Administrator to appoint, in addition to physicians, certain non-physician health-care professionals—dentists, registered nurses, optometrists, pharmacists, podiatrists, and pyschologists—to various positions in the CMD's office. Thus, these non-physician professionals would be made eligible to serve as Deputy CMD and ADCMD. In addition, these professionals—including dentists, who are already eligible—could be appointed to the positions of Assistant CMD (ACMD) and Medical Director. Also, in the case of one ADCMD position and not more than two ACMD positions, appointments of individuals who had served as Directors of VA health-care facilities to such positions would also be authorized. The Committee notes that these changes in the description of the qualifications of appointees to the office of the CMD does not mandate any change from the current practice. Rather, the Committee's intent is to provide greater flexibility in identifying candidates for the positions in question.

A related change would amend section 4103 so as to specify that all individuals appointed to positions in the Office of the CMD must be qualified in the administration of health services. Under current law, such a requirement is specified as a prerequisite only with reference to non-physicians appointed to not more than two of the ACMD positions.

The Committee intends that this qualification could be gained through either formal education or in-service training combined with on-the-job experience.

With further reference to the issue of VA health-care personnel being qualified in the administration of health services, the Committee notes its concern that DM&S has not been as effective in providing administrative skill training for physicians selected for management positions—either in Central Office or in the field—as the Department has been for non-physicians who are selected for positions as Associate Directors and Directors of VA health-care facilities. For the latter positions, there exists a comprehensive training program, as part of which the individual spends an extended period of time working with and studying under an experienced Director. The Committee urges the VA to develop a comparable program for physicians who are selected for leadership positions—such as chiefs of staff, chiefs of large services, hospital directors, and Central Office positions—in the Department. The Committee notes that the VA's Regional Medical Education Centers may have a useful role to play in providing this training.

Operating Beds Requirements

Section 6 of S. 2445 as introduced would have amended section 5010(a)(1), to provide that the requirement that the VA operate and maintain 90,000 beds include domiciliary as well as hospital and nursing home care beds. Under current law, the Administrator is required to operate and maintain a combined total of not less than 90,000 hospital beds and nursing home beds. Section 6 of S. 2445 would have amended this provision to include domiciliary beds in that total.

As part of its oversight and legislative activities during the 98th and 99th Congresses, the Committee has had a strong interest in the dynamic changes occurring in the delivery of VA health-care services as a result of advances in medical technology, implementation of health-care cost-containment efforts, and growth in the use of alternatives to institutional care. In addition, the number of elderly veterans is increasing, the VA's medical facilities are older, and the availability of health-care and construction resources is becoming more limited. Policies and programs designed to provide the VA with greater flexibility to provide high quality health-care services in the most efficient and effective ways have been encouraged by the Committee. Particular attention has been focused on the VA's construction planning process and program order to seek to define more precisely the future direction, including the size and configuration, of the VA health care system in general and its institutional care programs in particular.

It is within this context that the Committee has examined the operating beds requirement. Concerns have been expressed informally to Committee staff that the operating beds requirement unnecessarily restricts hospital directors by limiting their capability to use alternatives to institutional hospital care, such as outpatient care and alternative ambulatory and nonambulatory programs. During the Committee's April 10 hearing on VA medical facility construction, VA Administrator Turnage stated that the VA's ability to include domiciliary beds in the mandated total would provide the VA with increased flexibility to adapt to changes in medical technology and treatment modalities. In response to a written question from Chairman Murkowski following the April 10 hearing concerning whether or not this law tied the VA's hands instead of adding to its operating capabilities, Administrator Turnage provided the following answer:

> This well intentioned law does not recognize that there are other modes of care available for treating the patient other than VA hospital based-care. For example, the provisions of outpatient care has had and continues to have, an increasingly important role in fulfilling the Department's primary function as a comprehensive medical and hospital service. In addition, the VA has found that increased use of community and State nursing homes is an efficient use of scarce medical resources. The VA must be allowed to continue to operate in the most cost effective manner while at the same time meeting the needs of eligible veterans, irrespective of the bed levels needed to accomplish this. Improved utilization of these as well as other non-VA bed-oriented treatment modalities has enabled the VA to provide more care with fewer beds. In 1980, for example, the VA operated 84,129 hospital beds with 1,247,516 patients treated and 15,751,690 outpatient visits; in 1985 on the other hand, the VA operated 74,357 hospital beds with 1,350,702 patients treated and 17,789,582 outpatient visits.
>
> In other words, with 7 percent fewer beds, the VA treated 8 percent more inpatients and 11 percent more outpatients.

The Committee notes that the VA has never met the 90,000-operating beds requirement since the law mandating it was enacted in 1981. Fiscal year 1987 bed projections total 89,000 beds (74,300 hospital beds and 11,700 nursing home beds). In addition average length of stay is currently projected to be 23.4 days, 4.6 fewer days than in 1980. By enabling the VA to count its 7,000 domiciliary beds for the purposes of the operating beds requirement, the Chairman believed the VA would no longer be subject to an artificial requirement which only seems to constrain the VA in its use of medical care resources.

At the Committee's May 20 hearing, the VA again indicated that if Congress continued to favor a total minimum number of beds, then the VA favors counting domiciliary beds in the total. However, concerns were expressed by the veterans' service organizations that the addition of domiciliary beds would ultimately lead to a decrease in the number of VA hospital and nursing home care beds.

Therefore, in lieu of changing the operating beds requirement, the Committee instead expects that the Administrator will include in the annual strategic operational plan a review of the 90,000-operating-beds requirement, its impact on the flexibility available to medical center directors in utilizing resources, its impact on VA health-care delivery and medical facility construction programs, and the way in which this requirement is taken into account in the determination of the need for a new or replacement hospital.

The VA's views on this matter stating that the Agency is generally meeting this statutory obligation are explained in greater detail in an April 23, 1986 letter to House Veterans' Affairs Committee Chairman Montgomery as follows:

Office of the
Administrator
of Veterans Affairs

Veterans
Administration

APR 2 [illegible] 1986

Honorable G.V. (Sonny) Montgomery
Chairman, Committee on Veterans Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We regret the delay in answering your letter of March 5, 1986, asking why VA has planned to operate 88,200 beds in the coming fiscal year instead of the 90,000 operating beds which section 5010 of title 38, United States Code, seems to require the Veterans Administration to maintain.

It appears that the Agency has attempted to maintain the number of beds called for in section 5010. Nevertheless, while acknowledging that those numerical levels are set in law, they must be read in the context of the overall responsibilities of the Administrator and the Chief Medical Director. In view of their broad statutory responsibilities regarding operation of VA's health care system, we believe the Agency is generally meeting its obligations under section 5010 if it maintains operating beds, and other treatment capabilities, sufficient to meet the health care needs of eligible veterans and, in a national emergency, Department of Defense personnel. Certainly meeting that obligation requires careful balancing and oversight on our part.

In addition to what may be viewed as a "minimum bed requirement," the VA is, of course, required to maintain "a complete medical and hospital service . . . for the medical care and treatment of veterans." 38 U.S.C. § 4101(a). Moreover, section 5010(a)(1), imposes other requirements:

> "The Administrator shall *staff and maintain*, in such a manner as to ensure the immediate acceptance and timely and complete care of patients, sufficient beds *and other treatment capacities to accommodate, and provide such care to*, eligible veterans applying for admission and *found to be in need of* hospital care or *medical services*" [38 U.S.C. § 5010(a)(1) (emphasis added)].

These statutory provisions clearly direct the Administrator to ensure that the VA's allocation of its medical care appropriation allows it to meet all facets of its health care mission, not simply bed-based care.

The provision of outpatient care has, of course, played an increasingly important role in the Department of Medicine and Surgery's (DM&S) fulfilling its primary function as a complete medical and hospital service. Moreover, provisions of law direct the Administrator to operate several specialized programs which by their nature involve primarily noninstitutional services. *See*, *e.g.*, 38 U.S.C. § 612A, 663; sections 105 and 109, Pub. L. No. 99-166. In essence, it is conceivable that rigid adherence to achieving minimum operating bed levels could compromise the agency's ability to carry out other requirements of law.

Balancing these often-competing statutory demands can be particularly complex in a dynamic national health care system. For example, with ongoing construction, repair, and remodeling of VA facilities, the number of VA hospital or nursing care beds in operation changes constantly. The dynamic processes, which flow from the national scope of VA's health care system, make it difficult to estimate precisely the number of operating beds in the system. At any one time, the possibility exists that the number may be less or greater than 90,000.

In keeping with major health care trends generally, the Department has seen changes in its reliance on institutional care. Our providers have recognized that in many instances the most appropriate health care can be provided through noninstitutional programs. As you know, Congress has enacted several provisions in recent years to enlarge VA's authority to permit us to embark on such initiatives. *See*, *e.g.*, §§ 103(a)(1) and 104, Pub. L. No. 98-160 and §§ 101 and 104 of Pub. L. No. 99-166. The effects of this shifting emphasis, accelerated by efficiency-oriented management initiatives, has been to reduce dramatically the average length of stay in VA hospitals. This decrease in average length of stay results in VA's treating the same or a greater number of patients with an equal or fewer number of hospital beds.

In essence, VA has made great progress in efficiently providing care, without undue reliance on maintaining veterans in hospitals or nursing homes. The agency has achieved this through the effective use of alternative modes of treatment. These are certainly desirable changes of which Congress has been aware and helped foster.

Another imperative for the efficient operation of the DM&S is the recognition that the Agency must begin to prepare to meet the need for nursing home care of an increasingly aged veteran population. Yet budgetary restraints require that cost effective means be found to meet that need. As you know, our 1987 budget reflects a long term care policy which would place increased reliance on the State home and the community nursing home care programs as more cost-effective vehicles of long-term care. By furnishing a greater volume of care through VA-sponsored community providers and State homes, VA nursing home care can be expanded at a significantly lower cost. This budget also permits expansion of our home care and adult day health care programs and anticipates our converting numbers of hospital beds to nursing home care use. If identified long term care needs cannot be met through conversion or through community and State home facilities, new construction will be considered. In essence, while mindful of the bed-levels in section 5010, VA long term care projections are based on most effectively and efficiently increasing the needed resources to deliver that care. Our planning in the meantime is geared to meeting needs for nursing home care while complying with the legislative directives in title 38 for providing specific types of health care, maintaining a complete medical and hospital service, and insuring the capacity to meet the health care needs of veterans.

We do not mean to imply that mere administrative inconvenience or policy choices justify noncompliance with statutory provisions. Ultimately, however, we must attempt to harmonize multiple statutory directives with patient care imperatives and the availability of appropriations. Despite efforts to achieve the 90,000 bed level, we cannot assure that that level can be reached in FY 1987.

Finally, it is important to note that this view of section 5010 avoids the difficult constitutional question presented by section 5010(a)(1), which states that the President shall submit a budget to the Congress sufficient for the Administrator to operate at least 90,000 beds.

On October 13, 1981, as Congress considered section 108(a)(1) of H.R. 3499, subsequently enacted as section 5010(a)(1), the then Assistant Attorney General for the Office of Legislative Affairs informed the Chairman of the Senate's Committee on the Budget:

> In our view, a statutory direction to the President to include any particular request in the budget he submits to Congress would be of doubt-

> ful constitutionality under Art. II, §§ 3 of the Constitution. . . . Under that provision, . . . the President's constitutional role in the lawmaking process includes "the recommending of laws he thinks wise. . . ." [A law] which would require the President to submit certain budget proposals. . . . necessarily subverts the President's constitutional power.

In our view, the provisions directing the President to submit a specific budget proposal and calling for the VA to operate a minimum number of beds are inextricably entwined and pose the same constitutional question. Our view regarding your question about the VA's operating a specific number of beds avoids the need to confront any constitutional issues.

In summary, the Agency is generally meeting its obligation under section 5010(a)(1). Meeting that obligation necessarily requires us to take account of other requirements of law, the availability of appropriations, and the health care needs of our patients.

Thank you for the opportunity to clarify this important question.

Sincerely yours,

THOMAS K. TURNAGE
Administrator

Part C—Medical Facility Construction and Planning

Parking Facilities

Section 221 of the Committee bill, which is derived from Section 303 of S. 2422 as introduced, would restate the VA's authority to acquire a parking facility or site and would require the VA to establish and collect reasonable fees at all VA medical center parking facilities where any garage constructed or acquired at a cost exceeding $500,000 (or $100,000 per year in the case of acquisition by lease), or altered at a cost exceeding $10,000, opens or is completed after September 30, 1986.

Background

Section 301(a) of Public Law 96-22, enacted in 1979, established current section 5009 of title 38. This provision authorizes the establishment of a revolving fund to finance the construction, alteration, operation, and maintenance of garages and parking facilties which cost $2 million or less at VA medical centers and the collection of parking fees from employees. It also requires that all income from those parking fees and appropriated funds shall be administered as a revolving fund for the purposes authorized by section 5009.

The VA has never established the revolving fund and maintains that appropriation act language is necessary to activate such a fund. The VA contends that in the absence of such language or an appropriation to the fund, section 5009 does not authorize the VA to impose parking fees.

The current practice of the VA is not to charge fees for parking at VA medical centers (VAMCs). However, the VA has made exceptions to this practice, and fees for parking are charged at two locations: VAMC Memphis, Tennessee, and VAMC Iowa City, Iowa. Fees for employee parking at these facilities were first instituted in the 1960's and 1970's. Employees are charged nominal fees ($2.25 per pay period at Memphis and ranging from $1.85 to $3.69 per pay period at Iowa City) to recover the cost of a surface parking facility constructed at Memphis and to control limited parking availability at Iowa City. Fees collected have been applied to the expenses incurred for parking facilities at both VAMC's, and no excess funds have been available for deposit into the U.S. Treasury as miscellaneous receipts. At both locations, the fee structure has remained constant over the years, although operating expenses in recent years have significantly exceeded income and have required the VAMC's to make up the shortfall from the medical care appropriation account.

In the report accompanying H.R. 3038, the Department of Housing and Urban Development-Independent Agencies Appropriation Bill, 1986 (S. Report No. 99-129, pages 99-100), the Senate Appropriations Committee noted that it had deleted FY 1986 funding requests for VA parking garages and directed the VA to establish user fees for parking at VA medical facilities. The report stated in pertinent part:

> The Committee directs the VA to immediately promulgate a program by which parking facilities can be provided at VA medical center sites and the costs paid for or amor-

> tized by the charging of user fees. The Committee recognizes and appreciates the need for adequate parking facilities and will expeditiously consider authorizations for such construction when a fee-based cost-recovery system is implemented.

No appropriation for VA parking facilities was enacted for FY 1986.

The VA has not yet implemented a fee-based cost-recovery system for parking facilities. A VA task force has developed alternatives and procedures for implementing a paid parking program under the VA's existing authority to impose parking fees and the task force has presented a position paper to the Administrator of Veterans' Affairs for review. On August 18, 1986, the agency submitted to the Committees on Veterans' Affairs a draft proposal for a limited paid parking program.

Concerns were raised by the VA at the Committee's May 20 hearing over: (1) the need for the proposed new authorizing legislation since the VA already has the authority to impose parking fees at medical facilities and the agency task force is developing recommendations to implement that authority; and (2) the establishment of a revolving fund instead of the current appropriation process because of administrative burdens the VA believes it would impose on the agency and the possible future dependence of new parking facility construction on revolving fund revenue which the VA believes would be derived solely from parking fees collected by the agency.

Committee bill

Section 221 of the Committee bill would restate in section 5009 of title 38 the VA's existing authority in section 5003 (in conjunction with section 5001(3)) to acquire a parking facility or site for a parking facility by purchase, lease, condemnation, donation, exchange or otherwise. This revision of section 5009 parallels the language of section 5003 which authorizes the acquisition of medical facilities which, as defined in section 5001(3), includes garages and parking facilities.

Regarding the existing authority, and the proposed requirement, to charge reasonable parking fees, the Committee bill would make three categories of individuals exempt from the imposition of parking fees: (1) veterans and other eligible persons seeking treatment, (2) volunteers (as defined in VA regulations), and (3) VA employees covered by an existing collective bargaining agreement which, at the time of enactment of the Committee bill, has a specific termination date and which prohibits the charging of fees for employee parking.

The Committee intends that the establishment and collection of parking fees would not be required for any new surface parking lot which is constructed, acquired, or altered unless it would be required because of new construction, acquisition, or alteration of a garage used in connection with the same VA medical facility. In such a case, parking fees would be required for all parking facilities, including surface parking, used in connection with such VA medical facility. In all other situations, the charging of fees for surface parking would rest within the discretion of the Administrator.

The purpose of a reasonable fee schedule, which would be prescribed pursuant to revised section 5009, is to ensure that funds would be deposited into the revolving fund to create a construction reserve to be used for future VA parking structure construction, acquisition, or alterations. It is the Committee's expectation that after FY 1986 the funds accumulated in the parking revolving fund construction reserve from parking fees will be a principal source of funds for future parking structures. The Committee bill would establish a minimal statutory threshold, at which a parking fee program would be mandatory. The Committee notes that the Administrator would continue to have discretionary authority to establish a parking fee program for other VA medical facilities wherever appropriate and that a more broad-based parking fee program would help spread the burden of and otherwise facilitate future construction by the creation of a reasonable reserve for future parking facility construction needs.

Under the Committee bill, any fees, mandatory or discretionary, charged for parking at VA facilities would be required to be in accordance with a schedule of parking fees established by the Administrator that are "reasonable under the circumstances". Where mandated by the Committee bill, fees must, at a minimum, be sufficient to recover the actual operation and maintenance costs of all parking facilities used in connection with a VA medical facility. To comply with that minimum, the Committee intends that the VA may need to adjust the fee schedule periodically, if operation and maintenance costs at a facility should increase. The Committee bill would not preclude the VA from establishing a reasonable fee schedule which would recover amortized parking facility construction costs. The Committee bill would merely establish the minimal threshold required by statute for a parking fee schedule where fees would be mandated by the bill and a threshold to be considered where the establishment of a fee schedule by the Administrator would be discretionary.

In prescribing any parking fee schedule, the Committee intends that the Administrator, to the extent feasible, establish fee schedules which take into account the pay levels of employees, so that employees at lower pay grades will not bear a disproportionate share of parking costs, and give special consideration to employee car pools and to frequent visitors of long-term patients.

The Committee bill removes the current section 5009 restriction which limits authorization of appropriations for the construction or alteration of any garage or parking facility to a project involving the expenditure of $2 million or less, so that appropriations for all future VA parking facilities would be authorized by revised section 5009.

The Committee bill would also clarify Congressional intent behind the language "but only to the extent provided for in appropriation Acts" in current section 5009, which has been interpreted by the VA General Counsel in a manner which the Committee believes is not consistent with Congressional intent. The Committee has made a technical revision to section 5009 to reflect clearly the Congressional intent that the establishment of the revolving fund is not tied to the enactment of an appropriations act provision to activate the revolving fund. The Committee bill would clarify that only the expenditure of funds from the revolving fund may be made only as provided for in appropriation acts.

The Committee bill would revise the authority to establish the parking revolving fund into which appropriated amounts and all income from parking fees collected by the VA would be deposited. It would authorize all funds in the revolving fund to be available without fiscal year limitation to provide continuity of funds available to the VA. Also, for the first time, no funds other than from the revolving fund would be authorized to be expended for construction, acquisition or alteration costs for parking facilities used in connection with a VA medical facility beginning in FY 1987. There would be two limited exceptions to this new requirement: (1) Certain costs associated with the construction planning phases would continue to be funded by the VA construction appropriation account. (2) Projects for parking facilities constructed after September 30, 1986, but for which funding was appropriated prior to the beginning of FY 1987, would be grandfathered and, thus, could be funded by means of the current practice of funding parking facility construction through the construction appropriation account. This would avoid any alteration of funding which has been appropriated for specific parking facility projects at VA medical facilities located in Philadelphia, Pennsylvania; Lexington, Kentucky; Portland, Oregon; and San Francisco and Los Angeles, California. Moreover, the types of parking-facility repairs or minor alterations currently funded as operation and maintenance expenses under the VA's medical care account would not be affected by this requirement.

The Committee bill, in addition to authorizing appropriations for parking-facility operation and maintenance to the revolving fund, would allow for continuation of the current appropriations practice whereby medical care account funds are available for operation and maintenance costs of all parking facilities used in connection with VA medical facilities. The VA has expressed concern over administrative difficulties in segregating the operation and maintenance costs for parking facilities from similar costs for a medical facility of which the parking facility may be an integral part. The Committee bill would make it possible for certain difficulties in this respect to be avoided by not requiring such costs to be paid out of two different accounts. The Committee notes that this discretionary authority would not, in any way, alter the statutory requirement that any fee schedule prescribed for mandated parking must, at a minimum, recover the operation and maintenance costs of all parking facilities at a medical facility. Consequently, the Committee bill would not relieve the VA of the responsibility of separately accounting for or estimating operation and maintenance costs of parking facilities for the purposes of determining the fee schedules when fee parking is mandated. Similarly, the Committee encourages the VA to establish the same accounting or estimating system for other medical facilities at which the VA, in its discretion, imposes fee parking since revised section 5009 authorizes the Administrator to take operation and maintenance costs into consideration when prescribing a fee schedule.

The revisions to section 5009 made by the Committee bill would generally become effective on the date of enactment of the bill. After September 30, 1986, no funds other than from the revolving fund could be spent for construction, acquisition, or alteration of parking facilities, other than those for which funds are appropriated prior to September 30, 1986, but which would open, or at which the alterations are completed, after that date. Although the funding source for these projects would be grandfathered by the Committee bill, the Committee stresses that the establishment of a fee schedule and the collection of fees would still be required as to all parking facilities at a medical facility at which any such structure opens, or alterations of such structure are completed, on or after October 1, 1986.

The Committee bill would also provide a transition period for certain employees who would be affected by parking fees established under revised section 5009—those covered by a collective bargaining agreement which prohibits the VA from charging parking fees at the time of enactment of this Act. The VA has advised the Committee that it has three national collective bargaining agreements, covering approximately 125,000 employees (mostly in its Department of Medicine and Surgery), which expressly prohibit the VA from charging parking fees during the duration of the agreement where parking was provided at no cost when the agreement was entered into, except where the prohibition is waived pursuant to a local contract provision authorizing such a waiver. Each national contract expires at a different time and at least one contract has an indefinite extension provision.

The Committee is aware that the prohibition against fee parking for employees contained in each of the collective bargaining agreements could be construed as superseded by the provision of revised section 5009 which would require the VA to impose fee parking for employees. Therefore, to avoid any sudden changes in their bargained-for conditions of employment, the Committee bill provides the following specific transition rules: Although the Committee bill would, where fees are mandated, generally require the charging of parking fees for employees effective on the date of enactment, employees covered by a collective bargaining agreement which prohibits such fees and which has a fixed expiration date, would not be charged fees until the agreement is modified, extended, or renewed in any way; and employees covered by a similar agreement which has no fixed expiration date, would not be charged fees until January 1, 1988.

Consideration of Sharing Department of Defense Facilities

Section 222 of the Committee bill would require the Administrator to include in any prospectus proposing the construction of a new or replacement facility the consideration that was given to VA-DOD health-care resources sharing as a full or partial alternative to the construction, purchase, or lease of a new or replacement medical facility. The effect of this provision would be to require the VA, in connection with assessing how best to meet the medical needs of eligible veterans in a particular area, to consider the option of sharing VA-DOD health care resources.

Background

During the last three Congresses the Committee has engaged in an extensive ongoing dialogue with the VA, including 4 days of Committee hearings, on a variety of issues related to the VA's construction planning process and program. One of the Committee's major concerns has been the process, including both policies and procedures, used by the VA to determine whether to proceed with the construction of a new or replacement medical facility.

Last year, in order to establish a more comprehensive link between the medical program needs assessment process and the development of construction requirements, section 302 of Public Law 99-166 amended section 5007 of title 38 to require that the VA submit to the Congress, on an annual basis, a five-year strategic operational plan and to base the construction plan on the strategic operational plan. Section 303 of that same law amended section 5004 of title 38 to require the Administrator to include in a prospectus proposing the construction of a new or replacement VA medical facility a description of the consideration given to the option of acquiring an existing medical facility by lease or purchase in lieu of constructing a new facility. The purpose of that provision was to expand the VA's options for meeting the medical needs of eligible veterans in a particular area by helping to ensure that the VA gives appropriate consideration to the purchase and lease options.

Subsequently, in January 1986 the VA and the U.S. Air Force signed an agreement to share health-care resources at the new VA Medical Center (VAMC) in Albuquerque, New Mexico. Under the terms of the agreement, the Air Force will use approximately 40 beds of the hospital. The implementation of this agreement will obviate the need for a major addition to the Air Force hospital at Kirtland Air Force Base which was projected to cost $26 million. The Committee believes that the Albuquerque VAMC-Air Force agreement is the most significant arrangement of this kind because of the VA's sharing of its inpatient resources and programs with a DOD facility. The Committee supports this effort as a mechanism to reduce health-care costs, particularly in the area of medical facility construction, and make maximum use of existing health-care resources.

The Committee notes that the VA did not explore the possibility of a sharing agreement with the U.S. Army in Augusta, Georgia, as an alternative means of addressing the much needed replacement of the VA's long-term-care psychiatric hospital in that area. The Committee finds this to be very unfortunate in light of the VA hospital's close proximity to the Eisenhower Army Hospital which the Committee understands is highly underutilized.

Committee bill

The Committee expects the VA to consider as part of its strategic planning process VA-DOD health-care resources sharing options, particularly as either a partial or full alternative to the construction of medical facilities. The Committee bill would require the VA to include in each prospectus proposing the construction of a new or replacement medical facility a description of the consideration given to VA–DOD health-care resources sharing alternatives. The Committee also expects that the construction plan included in the VA's strategic operational plan would include a description of the VA's consideration of the sharing option during the medical programs needs assessment and the construction planning process.

State Veterans' Home Grants

Section 223 of the Committee bill, which is derived from section 7 of S. 2445 and section 12 of S. 2388, would repeal the authority for grants for the expansion of State Home hospital facilities, extend for 3 years (through fiscal year 1989) the authorization of appropriations for grants for the construction of State Home facilities, and eliminate the basis for a VA interpretation that current law requires the VA to use a "first-in/first-out" basis for awarding the grants. The VA would be required to prescribe and publish, not later than 180 days after enactment, proposed regulations specifying a methodology to prioritize State Home projects grants applications and to publish, after a 60-day period for public comment, the final regulations.

Background

The VA participates in two separate programs of assistance to State Veterans' Home hospital, nursing home, and domiciliary facilities: a program of per diem payments for care provided to eligible veterans and a program of matching grants to the States for the construction, remodeling, or renovation of State Home facilities.

The Committee is highly supportive of the State Veterans' Home program and notes that the program plays a significant role in the care of eligible veterans, especially in the area of extended care. The fiscal year 1987 VA budget request included an increased emphasis by the Administration on the State Home nursing home care program by requesting that a greater share of VA nursing home care (30 percent instead of 20 percent of the market share as had been past practice) be provided by the State home program. This reflects the VA's plans to increase reliance on this program. The budget request also called for a significant increase in the funds for the State Home grants program, from the $21 million appropriated for fiscal year 1986 to $42 million for fiscal year 1987.

In light of the increased demands for long-term care for elderly veterans and the general availability of VA and non-VA hospital beds, the Committee believes that the major focus of the State Home program should be in the area of nursing home care. Therefore, the Committee bill, derived from section 7 of S. 2445, eliminates the VA's authority for grants for the expansion of State Home hospital facilities. The Committee notes that the VA in its testimony at the Committee's May 20, 1986, hearing stated it had no objection to this provision in view of the pressing need for long-term care facilities. As a result of this change, matching funds granted would be authorized for the new construction and expansion of buildings for furnishing nursing home or domiciliary care and for the remodeling and alteration of buildings for furnishing hospital nursing home, or domiciliary care.

The VA also strongly supported the extension of the authority to provide grants to States for construction of State Home facilities. There are now State Homes in 35 States with 45 nursing homes, 43 domiciliaries, and seven hospitals. The estimated costs of extending this authority for fiscal year 1987 would be $42.4 million for each of the subsequent years. The Committee bill provision, derived from section 12 of S. 2388, would extend this authority through fiscal year 1989.

Under current law, the VA must approve a grant application if that application meets the requirements set by law. Therefore, the VA believes that it does not have the discretion to rank grant applications on a priority basis. It, therefore, approves grants as funds become available in the order in which grant requests are received. Section 7 of S. 2445 would have required the VA to establish a prioritization methodology and to grant awards on the basis of the pre-established criteria. The VA at the Committee's May 20 hearing expressed concerns about this approach, particularly that it could discourage some States from applying for State Home construction grants.

Committee bill

Section 223 of the Committee bill would eliminate the basis for the VA's interpretation that current law imposes a "first-in/first-out" requirement and provide the VA with the flexibility to award grants based on other considerations. The Committee continues to believe that because the States continue to demonstrate considerable interest in participating in this program and because there is a limited amount of grant funds available, the VA should establish criteria that take comparative need into account as the basis for making grant awards. The Committee bill would, therefore, require the VA to prescribe and publish, not later than 180 days after the date of enactment, proposed regulations specifying a methodology to prioritize State Home projects grant applications. The VA would be required to publish the final regulations after a 60-day public comment period.

The Committee notes, that this provision would not preclude the VA from determining that the "first-in/first-out" principle is advantageous and incorporating that approach either without change or with some modifications in the new regulations. However, the Committee believes that it would be more meritorious for the VA to base its decisions to award grants, at least in part, on the basis of need.

TITLE III—MISCELLANEOUS PROVISIONS

Modifications of Certain Reporting Requirements

Section 301 of the Committee bill, which is derived with modification from a draft bill submitted by the Veterans' Administration, would repeal or modify certain provisions of title 38 requiring reports to be submitted to the Congress or the President by the Administrator of Veterans' Affairs.

Background

On May 12, 1986, the VA transmitted to the Congress a draft bill to eliminate or modify certain requirements for reports to be submitted to the Congress or the President. The draft bill proposed to eliminate four reporting requirements and to modify the requirements for three other reports. The VA indicated in its transmittal letter that, due to reductions in funds available for the management of the Department of Medicine and Surgery (DM&S), the VA was carefully examining ways by which to make better uses of those limited funds. Following the receipt of the draft bill, the Committee carefully examined the issue of the continued need for each of these reports.

Committee bill

The Committee bill would eliminate or modify certain reports required to be submitted to Congress or the President by the Administrator. The Committee bill would eliminate: (1) the report on equitable relief under section 201(c)(3); (2) under certain conditions, the report of the level of expenses for contract dental care under section 612(b)(4); and (3) the report on the activities of the VA's Exchange of Medical Information Program under section 5057. In addition, the report on special pay for VA physicians under section 4118(g)(2)(c) would be required every 3 years in lieu of every 2 years.

Section 210(c)(3) provides the Administrator with the authority to provide equitable relief to beneficiaries who relied on VA determination of eligibility or entitlement without knowing them to be in error. The Administrator is required to report annually on the disposition of each case recommended to him for equitable relief. Under the Committee bill, there would be no change in the Administrator's authority to provide equitable relief although the reporting requirement would be eliminated.

In the past, the Committee had serious concerns about various aspects of the VA's contract dental care program. In 1978, that program had a cost of $45.1 million. As a result of the high cost of the program, legislation was enacted to address the vast expenditures of funds relating to the program. A report was required to be submitted to Congress in order to help monitor the expenditures of this program. Since that time, expenditures under this program have decreased to an FY 1985 level of $12.6 million. Moreover, the President's budget request for the VA includes specific cost information for this program, which serves as an appropriate mechanism for the Committee to monitor on a regular basis the cost of the program. In light of these factors, the Committee bill would provide that no report would be required if information on the expenditures of this program were included in the VA portion of the President's budget.

A report on the VA's Exchange of Medical Information Program required by section 5057 provided information on projects which received funds under this program as authorized by section 5054. Through this program, grants were awarded to medical schools, hospitals, and research centers. According to the VA, fiscal year 1982 was the last time that grants were awarded under this program. Since projects under this program will no longer be conducted there is no longer a need for such a report.

Finally, section 4117(g)(2) requires that every 2 years the Administrator submit to the President a report recommending appropriate amounts of special pay for VA physicians and dentists needed to ensure that the levels of total pay for VA physicians and dentists are reasonably comparable with the levels for non-VA physicians, so as to make possible the recruitment and retention of well-qualified physicians and dentists. The VA states that the report takes approximately 18 months to complete, and that therefore, no time is available to implement and evaluate the results of changes recommended in the report. Because of the Committee's need to be informed on the VA's ability to recruit dentists and physicians and in order to address this concern so as to assist the VA in its efforts to implement and evaluate changes in the special pay program, the Committee bill would expand the period between reports to 3 years.

Cost Estimate

In compliance with paragraph 11(a) rule XXVI, of the Standing Rules of the Senate, the Committee, base on information supplied by the Congressional Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be minus $140 million in budget authority and minus $166 million in outlays in fiscal year 1987; $14 million in budget authority and $5 million in outlays in fiscal year 1988; $85 million in budget authority and $75 million in outlays in fiscal year 1989; $77 million in budget authority and $106 million in outlays in fiscal year 1990; and $54 million in budget authority and $53 million in outlays in fiscal year 1991. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 16, 1986

1. BILL NUMBER: S.2422

2. BILL TITLE:

   Omnibus Veterans' Benefits Improvement and Health-Care Authorization Act of 1986.

3. BILL STATUS:

   As ordered reported by the Senate Committee on Veterans' Affairs, June 26, 1986.

4. BILL PURPOSE:

   To increase the rates of disability compensation and of dependency and indemnity compensation (DIC), to improve the veterans' home loan program, to authorize psychiatric residential treatment of chronically mentally ill veterans in contract facilities, to authorize certain pilot programs, and for other purposes.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

(by fiscal years, in millions of dollars)

	1987	1988	1989	1990	1991
Function 550					
Direct Spending:					
Budget Authority	2	2	2	2	2
Outlays	2	2	2	2	2
Function 600					
Direct Spending:					
Budget Authority	-7	-6	-3	-4	-5
Outlays	-7	-6	-3	-4	-5
Function 700					
Direct Spending:					
Budget Authority	-185	-38	25	39	57
Outlays	-188	-33	25	51	45
Authorization:					
Authorization Level	50	56	61	40	0
Outlays	27	42	51	57	11
Function 700 Total:					
BA/Authorization	-135	18	86	79	57
Outlays	-161	9	76	108	56
Total Budgetary Impact					
Direct Spending:					
Budget Authority	-190	-42	24	37	54
Outlays	-193	-37	24	49	42
Authorization:					
Authorization Level	50	56	61	40	0
Outlays	27	42	51	57	11
Total:					
BA/Authorization	-140	14	85	77	54
Outlays	-166	5	75	106	53

The cost of this bill would fall in budget functions 550,600, and 700.

Basis of Estimate

The following section-by-section cost analysis only addresses those sections of the bill that could be expected to have significant budgetary impact.

TITLE I.

Section 101. This section would provide an increase in the monthly rates payable under the disability compensation and DIC programs equal to the percentage increase in Social Security benefits effective December 1, 1986.

The conference agreement on the Concurrent Resolution on the Budget for Fiscal Year 1987 reflects an assumption that the increase in the cost of living on which the December 1986 cost-of-living adjustment (COLA) in Social Security benefits is based will be 2.0 percent. Under current law, Social Security COLAs are only triggered by cost-of-living increases of 3.0 percent or more. Thus, under current law and budget resolution economic assumptions, no increase would occur in Social Security or compensation benefit rates, and this provision would have no budgetary impact.

However, the enacted budget resolution also contains language expressing the sense of the Congress that legislation should be enacted eliminating the 3.0 percent trigger. Should such legislation be enacted, section 101 would result in an increase in compensation benefits of 2.0 percent. The cost of a 2.0 percent compensation COLA is shown below.

(by fiscal years, in millions of dollars)

	1987	1988	1989	1990	1991
Budget Authority	172	204	200	197	193
Outlays	155	204	201	197	193

On the other hand, the CBO economic assumptions underlying the Initial Sequestration Report for Fiscal Year 1987 project a COLA of 1.3 percent. If this increase should take effect, the addition to 1987 compensation outlays would be $101 million.

Section III. This section would prohibit the VA from bidding at foreclosure sales on properties securing defaulted VA-guaranteed loans, unless the agency determines that they could sell the property within one year at a price that would make it economically advantageous for the VA to acquire and dispose of the property.

(by fiscal years, in millions of dollars)

	1987	1988	1989	1990	1991
Budget Authority	-185	-38	25	39	57
Outlays	-188	-33	25	51	45

This estimate was prepared using a computer model that interrelates the various obligation and receipt activities of the Loan Guaranty Revolving Fund based on their historical relationships and projects these factors using past trends and expectations of future economic activity.

At the end of fiscal year 1985, approximately 22 percent of the real property owned by the VA had been in inventory for more than a year. This estimates assumes that the VA's expectations of their ability to resell property would be somewhat optimistic and that, under this provision, the VA would refuse to bid at 15 percent of the foreclosure auctions at which they would offer a bid under current law. This change would have several effects on the operation of the revolving fund. The outlay at the time of foreclosure would be reduced, because the VA would pay the lender the amount of the guaranty rather than the full indebtedness of the veteran. This effect accounts for the net outlay reduction in 1987 and 1988. In 1989-1991, on the other hand, the decreased income to the revolving fund from the ensuing reduction in real property and vendee loan sales would, at least temporarily, result in a net increase in outlays. Over the long term, however, this provision should reduce the VA's average loss on defaulted loans and result in a net savings for the revolving fund.

Section 116. This section would authorize the VA to offset compensation and pension benefits to veterans to recover overpayments of military retirement benefits or indebtedness associated with participation in the Survivor Benefit Plan, once the Department of Defense (DoD) has determined that such overpayment or indebtedness is not recoverable from payments made to the veteran by DoD. The funds withheld from compensation and pension benefits would be transferred to the Military Retirement Trust Fund.

	(by fiscal years, in millions of dollars)				
	1987	1988	1989	1990	1991
FUNCTION 600: Military Retirement Trust Fund					
Budget Authority	-7	-6	-3	-4	-5
Outlays	-7	-6	-3	-4	-5

According to DoD estimates, there is currently approximately $9 million in uncollectible overpayments and indebtedness of veterans who are receiving compensation or pension benefits. They estimate that the total could rise to $25 million by 1991. The estimate above assumes that the offsets in an individual veteran's compensation and pension benefit would be spread over a period of up to two years to minimize the economic hardship to the veteran.

TITLE II.

Section 202. This section would authorize the VA to contract with community-based psychiatric residential treatment facilities for the care of veterans who are being furnished VA inpatient care for chronic mental illness and certain veterans with service-connected mental illness.

The VA has stated that because treatment in a community residential facility is generally less costly than the same care in a VA facility, they could implement this authority at no additional cost. However, there is some evidence that there may be waiting lists for psychiatric beds at a number of VA hospitals. While data is not available to confirm or refute this evidence, the existence of waiting lists for these beds would mean that the beds vacated by veterans receiving contract care would be filled by veterans on waiting lists. Thus, no savings would be generated to offset the cost of the contract care. Because of the absence of waiting list data, however, it is not possible to determine with any degree of precision the likely cost of this provision.

Section 203. This section would authorize the VA to conduct a pilot program for the provision of respite care. Respite care is defined as intermittent or temporary hospital or nursing home care provided to veterans who have been diagnosed as suffering from a chronic illness and who are receiving care primarily in their own homes. The purpose of respite care is to provide relief to the caregiver, thereby enabling the veteran to continue residing primarily at home. Under the pilot program, only veterans with service-connected disabilities would be eligible for respite care.

	(by fiscal years, in millions of dollars)				
	1987	1988	1989	1990	1991
Estimated Authorization Level	22	23	25	27	*
Estimated Outlays	22	23	25	27	*

This estimate assumes that the pilot program would be implemented in all VA hospitals. Based on information from the VA, it was assumed that approximately 4,400 eligible veterans would apply for respite care in 1987. It was further assumed that respite care would be provided in one-week lengths of stay about four times per year. If the pilot program were implemented on a more limited basis, the cost would be less than shown above.

Section 204. This section would require the VA to conduct a pilot program to provide under contract non-institutional alternatives to hospital and nursing home care. Under the pilot program, which would be conducted in not less than five nor more than ten sites, the services provided could include medical, rehabilitative, nutritional, personal care, homemaker, transportation, and other services and would be designed to alleviate the need for inpatient care. The cost of operating the pilot program would be limited in each year to 65 percent of the cost that would have been incurred in that year by furnishing nursing home care to the participating veterans.

(by fiscal years, in millions of dollars)

	1987	1988	1989	1990	1991
Estimated Authorization Level	4	7	9	12	*
Estimated Outlays	4	7	9	12	*

The above estimate assumes the 300 veterans would participate in the program in 1987 at ten demonstration sites, with the number participants growing to 700 by 1990. It was further assumed that these participants would be primarily individuals on waiting lists for VA nursing home beds.

Because the cost of the alternative services is limited to 60 percent of the cost of nursing home care ($19,100 on the average per patient treated in fiscal year 1985), it would be significantly less expensive to care for veterans in this manner than as inpatients. However, since it was assumed that the pilot program participants would be selected from veterans on waiting lists for nursing home beds, the cost of contract home-care services would not be significantly offset by reductions in spending for nursing home care.

Section 205. This section would authorize the VA to provide services to achieve pregnancy in a veteran or a veteran's spouse where such services are necessary to overcome a service-connected disability that causes the veteran's inability to procreate. Veterans must apply for such services prior to October 1, 1989.

(by fiscal years, in millions of dollars)

	1987	1988	1989	1990	1991
Estimated Authorization Level	1	2	2	1	0
Estimated Outlays	1	2	2	1	0

The above estimate covers the cost of two fertilization techniques utilized to relieve infertility resulting from two types of disabilities only. If other techniques are used, or if other disability groups qualify for services, the cost of this provision could be greater than shown above.

The estimate assumes that the 151 female veterans suffering from service-connected inflammation of the fallopian tubes would be eligible for in vitro fertilization. It was further assumed that approximately 40 percent of such veterans would apply for treatment before October 1, 1989. According to the VA, the average cost of a successful in vitro fertilization is around $38,000.

The estimate also assumes that the 1,665 veterans with service-connected spinal cord injuries would qualify for donor artificial insemination. It was further assumed that the 40 percent of those veterans who are over age 65 would not request the service. Of the 1,000 such veterans under age 65, it was assumed that 40 percent would request the service. The VA expects that they would make up to three insemination attempts for each couple and anticipates a success rate of 50 percent with each attempt. The agency has estimated a cost of $3,000 per insemination attempt.

Section 208. This section would extend for three years the authority of the VA to provide grants to the Republic of the Philippines for medical care for U.S. veterans.

	(by fiscal years, in millions of dollars)				
	1987	1988	1989	1990	1991
Estimated Authorization Level	1	1	1	0	0
Estimated Outlays	*	1	1	*	0

The authorization level for grants to the Philippines was estimated by inflating the 1986 appropriation amount ($500,000, reduced to $474,000 under P.L. 99-177). Outlays were estimated according to historical spending patterns.

Section 209. This section would provide that per diem subsidies paid by the VA for the care of veterans in state veteran's homes would not offset reimbursements to the homes under the Medicaid program.

	(by fiscal years, in millions of dollars)				
	1987	1988	1989	1990	1991
FUNCTION 550: Grants to States for Medicaid					
Budget Authority	2	2	2	2	2
Estimated Outlays	2	2	2	2	2

Under this provision, the cost of veterans' care that is covered by VA per diem payments would not be considered a third-party liability and, thus, would be reimbursed by the

Medicaid program. Depending on the match rate, the federal and state governments would pay varying shares of these additional Medicaid costs.

Currently, only four Medicaid-certified state nursing homes care for veterans who are Medicaid recipients. These are the state homes in Homelake, Colorado; Augusta, Maine; Oxford, New York; and King, Wisconsin. In 1985, approximately 500 veterans in these state homes were receiving Medicaid benefits. This estimate assumes that no additional state homes would apply for Medicaid certification as a result of this provision. If additional state homes did apply, the cost could be significantly higher than shown above.

Section 212. The section would require the VA to establish and maintain a registry of veterans exposed to ionizing radiation during military service who have applied for benefits and/or services from the VA based on such exposure. The registry would contain the most recent medical data on the veteran recorded by the VA; descriptions of birth defects, if any, of the veteran's children; data on claims for VA benefits filed by the veteran; and an estimate of the radiation dosage received by the veteran.

Since the VA would not be required to include in the registry records of veterans who applied for benefits and services prior to enactment of the bill unless requested to do so by the veteran, the cost of establishing and maintaining the registry should not be significant.

Section 221. This section would require the VA to charge parking fees at any VA medical facility at which construction or alteration of a parking garage costing more than $500,000 is completed after September 30, 1986. (Discretionary authority to charge parking fees at all VA facilities is contained in current law but is only utilized at two VA medical centers.) All parking fees collected would be placed in a revolving fund to pay the cost of future construction of parking facilities. In addition, such sums as may be necessary to finance the construction, alteration, acquisition, operation, and maintenance of parking facilities is authorized to be appropriated to the revolving fund.

Because the construction, alteration, and acquisition of parking facilities at VA medical centers is a discretionary activity, there is no way to determine the funding level that would be considered necessary by the appropriation committees. Also, because the authority to charge for parking exists in current law but is utilized at only two medical centers, it cannot be assumed that the use of this authority would be significantly expanded as the result of this bill. Thus, it is not possible to estimate with any precision the potential budget authority or outlays from the proposed revolving fund.

Section 223. This section would extend for three years the authorization of appropriations for grants to states for the construction of state veterans' homes. The section would also establish procedures for assigning priorities among competing grant requests.

(by fiscal years, in millions of dollars)

	1987	1988	1989	1990	1991
Estimated Authorization Level	22	23	24	0	0
Estimated Outlays	0	9	14	17	11

The appropriation levels assumed under this authorization were estimated by increasing the 1986 appropriation for expected inflation. Outlays were projected according to historical spending patterns.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENT:

Section 209. State Medicaid costs in Colorado, Maine, New York, and Wisconsin would increase by a total of approximately $2 million a year as a result of enactment of section 209, which provided that per diem subsidies paid by the VA to state veterans' homes would not offset reimbursements under the Medicaid program. This increase reflects higher state matching costs and corresponds to the increase in federal Medicaid costs attributed to this provision.

Section 223. The budgets of some state governments would be affected by section 223, which would extend for three years the authorization of appropriations for grants to states for the construction of state veterans' homes. The participation of a state in this program is wholly voluntary. However, if a state chooses to participate, the state must fund a least 35 percent of the construction cost of the nursing home. At an estimated average grant level of $2.7 million, funding of this activity at the estimated authorization level would enable the VA to make between 20 and 30 grants during the three year period.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE: None.

9. ESTIMATE PREPARED BY: K.W. Shepherd (226-2820

10. ESTIMATE APPROVED BY:

James Blum

James L. Blum
Assistant Director
for Budget Analysis

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are described below.

The Committee bill would provide for a cost-of-living adjustment in VA service-connected compensation benefits, improve and extend certain VA programs of benefits and services, improve the management of the VA's health-care system and the administration of the VA's home loan guaranty program, and make certain improvements in the VA's medical-facility construction and acquisition programs. The Committee finds that the Committee bill would not entail any significant regulation of any individuals or businesses or result in any significant impact on the personal privacy of any individuals and that the paperwork resulting from enactment would be minimal.

SECTION-BY-SECTION ANALYSIS OF S. 2422 AS REPORTED

Section 1

Subsection (a) of section (1) would provide that this Act may be cited as the "Omnibus Veterans' Benefits Improvement and Health Care Authorization Act of 1986".

Subsection (b) of section 1 would provide a table of contents for the measure.

Section 2

Would provide that, except as otherwise specifically provided, whenever in this Act, an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND OTHER BENEFIT PROGRAMS

Part A—Benefits

Section 101

Paragraph (1) of subsection (a) of section 101 would require the Administrator of Veterans' Affairs to provide for increases in the rates of and limitations on VA disability compensation and dependency and indemnity compensation (DIC) in accordance with provisions of this subsection of the Committee bill.

Subparagraph (A) of paragraph (2) of subsection (a) of section 101 would require the Administrator to increase, by the same percentage that benefit amounts are increased under title II of the Social Security Act, effective December 1, 1986, pursuant to a determination under section 215 of such Act, each of the rates and limitations that were increased by Public Law 99-238. Public Law 99-238, the Veterans' Compensation Rate Increase and Job Training Amendments of 1985, provided, effective December 1, 1985, a 3.1 percent increase in the rates of disability compensation paid to veterans with service-connected disabilities and DIC paid to the survivors of those who die from service-connected causes.

Thus, the Committee bill would provide for an increase in the basic monthly rates of service-connected disability compensation paid under present subsections (a) through (j) of section 314 of title 38, United States Code, to veterans with disabilities rated from 10 to 100 percent. The Committee bill would also provide for an increase in the following:

The higher monthly rates of compensation authorized under subsections (1) through (o) and (s) of section 314 for veterans with certain combinations of several disabilities.

The maximum amount payable monthly to a veteran under subsection (p), which authorizes the Administrator to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in section 314, or who is both blind and deaf.

The rates payable monthly under subsection (r) to veterans who are in need of aid and attendance.

The rate payable monthly under subsection (s) to veterans who are housebound.

The additional amount payable under subsection (t) to certain veterans who have suffered the service-connected loss or loss of use of an extremity and the non-service-connected loss or loss of use of the other, paired extremity.

The limitations on the total amount payable monthly to a veteran entitled to compensation under subsection (k) who is also entitled to compensation under another subsection of present section 314.

The additional compensation payable monthly to veterans with service-connected disabilities rated as 30-percent or more disabling who have spouses, children, or dependent parents, and the higher amounts of such compensation that are payable in the cases of veterans who have severely disabled spouses or children age 18 or older who are pursuing a course of education at an approved educational institution.

The clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of a prosthetic or orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veteran's clothing.

The rates of DIC for the surviving spouses of veterans whose deaths are service connected.

The additional amount—dependents' allowance—payable for each child under age 18 to a surviving spouse receiving DIC.

The additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home or who is so nearly helpless or blind as to be in need of regular aid and attendance.

The DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound.

The DIC for surviving children of veterans whose deaths were service connected, where no surviving spouse is entitled.

The DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained age 18 and who became permanently incapable of self-support before reaching age 18.

The DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

These increases in DIC would automatically result in identical increases in the benefits payable at DIC rates under section 410(b) of title 38 to surviving spouses of certain veterans compensated at the 100-percent rate at the time of death whose deaths were not service connected. Also, by virtue of section 156(e)(1)(A) of Public Law 97-377 (a fiscal year 1983 continuing appropriations measure enacted on December 21, 1982), these DIC increases would automatically result in an increase, also effective December 1, 1986, in benefits paid—in lieu of certain social security survivors' benefits (the so-called "mother's benefit") terminated by section 2205 of the Omnibus Reconciliation Act of 1981 (Public Law 97-35)—to certain surviving spouses of those who died on active duty or from a service-connected disability who have surviving children in their care.

Subparagraph (B) of paragraph (2) of subsection (a) of section 101 would require that in the computation of increased rates and limitations under subparagraph (A) of this paragraph of the Committee bill, all amounts of $0.50 or more be rounded to the next higher dollar amount and all amounts of less than $0.50 be rounded down.

Subsection (b) of section 101 would authorize the Administrator to increase, consistent with the increases made under subsection (a) of this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who do not receive compensation under chapter 11 of title 38. Public Law 85-857 generally codified in title 38 of the United States Code the laws relating to veterans' benefits; section 10 of that law provided that any individual who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, was to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, as long as he or she remains eligible.

Subsection (c) of section 101 would require the Administrator to publish in the Federal Register, at the same time as certain matters relating to the FY 1987 cost-of-living adjustment in Social Security benefits are so published, the amounts of the rates and limitations which would be increased by this section of the Committee bill and the amounts of the rates and limitations as increased by the Administrator in accordance with this section.

Subsection (d) of section 101 would establish December 1, 1986, as the date the provisions of this section become effective.

Section 102

Would amend present section 312(b) of title 38, United States Code, listing certain diseases which if they become manifest to a degree of 10 percent or more in veterans who are former prisoners of war who were detained or interned for at least 30 days, are presumed to have been incurred in or aggravated by military service, to expand that list of diseases to include the organic residuals of frostbite if the Administrator determines that the veterans had been held in climatic conditions where frostbite was possible.

Section 103

Clause (1) of subsection (a) of section 103 would amend paragraph (1) of present section 1520(a) of title 38, relating to the pilot program of independent living services and assistance for severely disabled service-connected veterans, to extend for 3 additional years (fiscal years 1987 through 1989) the authority of the Administrator to conduct such a program. Authority for the Administrator to approve veterans' participation in the program expired on September 30, 1985.

Clause (2) of subsection (a) of section 103 would amend paragraph (2) of present section 1520(a) of title 38, relating to those veterans to whom an opportunity for participation in the pilot program may be offered, namely, certain service-connected disabled veterans for whom the achievement of a vocational goal is not reasonably feasible, to add the word "currently" to modify the phrase "the achievement of a vocational goal is not reasonably feasible". Thus, for a veteran to be eligible for the pilot program, the determination regarding the infeasibility of achieving a vocation goal need not entail or imply a finding that the achievement of that goal is permanently infeasible.

Subsection (b) of section 103 would make conforming amendments to various sections of chapter 31 of title 38, adding the word "currently" to reflect the clarifying amendment made by clause (2) of subsection (a) of this section (discussed above) regarding the concept of the infeasibility of the veteran's potential for achieving a vocational goal.

Subsection (c) of section 103 would require the Administrator, not later than February 1, 1989, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives statistical data regarding veterans' participation in the pilot program of independent living services and assistance during fiscal years 1987 and 1988, together with any recommendation of the Administrator for administrative and legislative action regarding the program.

Section 104

Would amend present section 2014(b)(2) of title 38, relating to the authority for veterans readjustment appointments, to extend that authority for 2 fiscal years (through September 30, 1988).

Part B—Benefit Program Administration

Section 111

Would amend present section 1816(c) of title 38, relating to procedures and guidelines to be followed by the VA regarding the acquisition of real property securing loans guaranteed by the VA, to add a new paragraph (10), as follows:

Subparagraph (A) of new paragraph (10) of section 1816(c): Would prohibit VA acquisition of the property securing a VA-guaranteed loan that is in default unless the Administrator determines that the property is likely to be sold within 12 months after the date of the liquidation sale of that property and at a price which is economically advantageous to the government.

Subparagraph (B) of new paragraph (10) of section 1816(c): Would require the Administrator, in making a determination pursuant to new subparagraph (A) (discussed above), to consider the size of the VA's inventory of properties in the same general area, the current and projected real estate market conditions of that area, and the current and projected general economic conditions in that area.

Section 112

Would amend present section 1433(a)(1) of title 38, relating to the bar to duplication of VA educational assistance paid to a veteran eligible for benefits under the so-called "New GI Bill", to extend the bar to prohibit a veteran from concurrently receiving benefits under that program of educational assistance and under the Hostage Relief Act of 1980.

Section 113

Would amend present section 1792(a) of title 38, relating to the composition of the Administrator's Advisory Committee on Education, to repeal the requirement that veterans of World War II and Korea be represented on the Committee.

Section 114

Would amend present section 3202(b) of title 38, relating to the Administrator's supervision of the activities of fiduciaries who are receiving VA payments on behalf of incompetent or minor VA beneficiaries, to make clear that the VA may suspend payments to a fiduciary who fails to provide to the Adminstrator all information regarding the beneficiary's finances that is known to the fiduciary.

Section 115

Would waive the waiting period prescribed by present section 210(b)(2) of title 38—which provides, in part, that the VA may not in any fiscal year implement certain administrative reorganizations unless the Administrator, not later than the date on which the President submits the budget for that year, provides a report containing a detailed plan and justification for the reorganization—with respect to a reorganization involving the transfer of the Presidential Memorial Certificates program from the VA's Office of Administration to the VA's Department of Veterans' Benefits and of the Audio Visuals Service from the VA's Office of Administration to the Office of the Associate Deputy Administrator for Public and Consumer Affairs.

Section 116

Would amend present section 3101 of title 38, relating to the nonassignability of benefits payable by the VA and limitations on the collection of debts by offset or otherwise out of such benefits, to redesignate subsections (c) as (d) and subsections (d) and (e), respectively, and to add a new subsection (c), as follows:

Paragraph (1) of new subsection (c) of section 3101: Would authorize the Administrator, when requested pursuant to paragraph (2) of new subsection (c) (discussed below) to collect by offset of compensation or pension payable to a veteran any uncollected overpayments of retired or retainer pay or any indebtedness resulting from the veteran's participation in a plan prescribed in subchapter I (Survivor Benefit Plan) or II (Retired Serviceman's Family Protection Plan) of chapter 73 of title 10, United States Code.

Paragraph (2) of new subsection (c) of section 3101: Would authorize the Secretary of the service concerned to request the Administrator to collect by offset any amount of uncollected overpayments or indebtedness described in paragraph (1) of new subsection (c) (discussed above) when the Secretary has tried, pursuant to section 3711(a) of title 31, United States Code, relating to the collection of compromise claims of the United States by agency heads, but has been unable to collect that amount and has determined that it is not collectible from amounts payable by the Secretary or that the veteran is not receiving any payment from the Secretary.

Subparagraph (A) of paragraph (3) of new subsection (c) of section 3101: Would require that any collection authorized by paragraph (1) of new subsection (c) (discussed above) be conducted in accordance with the procedures prescribed in section 3716 of title 31, United States Code, relating to the collection of debts by means of offset from payments due the debtor.

Subparagraph (B) of paragraph (3) of new subsection (c) of section 3101: Would provide that for the purpose of subparagraph (A) of paragraph (1) of new subsection (c) (discussed above) the terms "records of the agency" and "agency" as used in specified provisions of section 3716 of title 31 shall refer to the records of the department of the Secretary concerned and to such department, respectively.

Paragraph (4) of new subsection (c) of section 3101: Would require that any funds collected under the provisions of paragraph (1) of new subsection (c) (discussed above) be credited to the Department of Defense military retirement fund.

TITLE II—HEALTH CARE

Part A—Health-Care Programs

Section 201

Subsection (a) of section 201 would amend present section 601 of title 38, United States Code, setting forth definitions for purposes of chapter 17 of title 38, relating to VA health care, to add a new paragraph (10), as follows:

New paragraph (10) of section 601: Would provide that the term "home health services" includes, in the case of services furnished a veteran in a setting other than a VA facility or the veteran's home, services furnished in any setting in which the veteran is residing but does not include structural improvements or alterations in such setting. Under current law, in the opinion of the VA General Counsel, the authority (in section 612 (a) and (f)) to furnish home health services does not include the authority to furnish those services to a veteran who is not residing in a private residence (*i.e.*, in his or her own house, apartment, or room, or in the house or apartment of his or her family or other individual in whose household the veteran is living), for example, a veteran residing in a community nursing home or residential care home. The Committee bill would thus provide clear authority for furnishing home health services in non-VA settings in which they are not currently considered to be authorized and would preclude the provision of structural improvements or alterations in those settings.

Subsection (b) of section 201 would restate without expanding the circumstances under which the VA is authorized under current law to contract for the furnishing of home health services. Thus, the provisions of this subsection state that, as provided in sections 601(6) and (as proposed to be added by subsection (a) of this section of the Committee bill (discussed above)) section 601(10), 603, and 612 of title 38, when VA facilities are not capable of furnishing economical home health services because of geographic inaccessibility or are not capable of furnishing the type of home health services required for a veteran, the VA may contract for the furnishing of the services. Section 601 defines the term "medical services"; paragraph (10) of section 601 (as proposed to be added) would specify that the term "home health services" includes certain services furnished in non-VA settings other than a personal residence; section 603 specifies the circumstances under which the VA may contract for hospital care or medical services when VA facilities are not capable of furnishing such care or services because of geographic inaccessibility or are not capable of furnishing the care or services required; and section 612, in subsections (a) and (f), provides that home health services may be furnished as part of the medical services furnished to a veteran for a service-connected disability, for any disability if the veteran has a service-connected disability rated at 50 percent or more or is receiving outpatient treatment in preparation for or follow-up after, or in order to obviate the need for, hospital care.

Section 202

Subsection (a) of section 202 would amend present subchapter II of chapter 17 of title 38, relating to VA health-care services, to add a new section 620B, entitled "Community-based psychiatric residential treatment for chronically mentally ill veterans", as follows:

Subsection (a) of new section 620B: Would define certain terms for the purposes of this section, as follows: The term "case management" would include the coordination and facilitation of all services furnished to a veteran by the VA either directly or through a contract, including, but not limited to, screening, assessment of needs, planning, referral (including referral for services to be furnished by the VA or a non-VA entity), monitoring, reassessment, and followup. (The Committee intends that case managers would also, to the extent feasible and appropriate, coordinate and facilitate the provision of services by non-VA entities with which the VA has not contracted.)

The term "contract facility" would mean a facility awarded a contract under subsection (b)(1) of the new section (discussed below), which would authorize the VA to contract with non-VA entities for care and treatment and rehabilitative services in community-based treatment facilities for certain veterans having chronic mental illness disabilities.

The term "eligible veteran" would mean either a veteran who at the time of referral to a community-based contract facility is receiving VA hospital, domiciliary, or nursing home care for a chronic mental illness disability or a veteran who has any service-connected disability or disabilities rated 50-percent or more disabling who has a chronic mental illness disability.

Paragraph (1) subsection (b) of new section 620B: Would authorize the Administrator, in furnishing health-care services under chapter 17 of title 38, to contract for the care, treatment and rehabilitation of certain chronically mentally ill veterans in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities. Veterans eligible to participate would (under the definition of "eligible veteran" in subsection (a) (discussed above) of the new section) be either those with chronic mental illness disabilities who are, at the time of referral to such a community-based contract facility, receiving hospital, domiciliary, or nursing home care through the VA for such a disability or with a service-connected disability or disabilities rated 50-percent or more disabling who have a chronic mental illness disability.

Paragraph (2) of subsection (b) of new section 620(B): Would require the Administrator, prior to furnishing care and services under the new section through a contract facility, to approve the quality and effectiveness of the program operated by the facility in which the veteran is to be furnished care and services. The Administrator would be required to prescribe in regulations the criteria for granting such approvals.

Subsection (c) of new section 620B: Would require the VA to designate a VA health-care employee to provide case management services (as defined in subsection (a) (discussed above) of the new section) to each veteran provided contract care and services under the new section.

Subsection (d) of new section 620B: Would require the Administrator, in furnishing care and services under the new section, to accord priority for such care and services in the following order: (1) to any veteran for a service-connected chronic mental illness disability; (2) to any veteran with a service-connected disability; and (3) to any veteran for a non-service-connected disability if the veteran is determined, under section 622(a)(1) of title 38, to be unable "to defray the expenses of necessary care". Under section 622(a)(1), a veteran is considered to be unable to defray such expenses if the veteran is eligible for Medicaid or is in receipt of a VA pension under section 521 of title 38 or if the veteran's income is not greater than the "Category A threshold", as defined in section 622(b)(1) of title 38 (for calendar year 1986, $15,000 in the case of a single veteran with no dependents, $18,000 in the case of a veteran with one dependent, and $1,000 for each additional dependent).

Subsection (e) of new section 620B: Would authorize the VA to enter into contractual arrangements with contract facilities whereby the VA would provide the facilities with in-kind assistance—for example the temporary, part-time services of VA employees and the use of VA supplies and equipment—and receive appropriate reimbursement therefor. Under such an arrangement, reimbursement could be by way of payment or reductions in charges otherwise payable by the VA for contractor services furnished to veterans, and the VA would be authorized to provide in-kind assistance for use solely in furnishing to veterans appropriate services under the pilot program. Funds received through reimbursement for in-kind assistance would be credited to funds allotted to the VA facility that provided the assistance.

Subsection (f) of new section 620B: Would require the Administrator, not later than 3 years after the date of enactment, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience under this section. The report would be required to include a description of the Administrator's evaluation and findings regarding the quality of care provided to participating veterans through contract facilities; of any health advantages that may result from furnishing chronically mentally ill veterans with care through contract facilities under the new section rather than in inpatient VA facilities; of the effectiveness of the pilot program in enabling the participating veterans to live outside of VA inpatient facilities and to achieve independence in living and functioning in their communities; of the effect of the pilot program on the average daily census in the VA facilities participating in the program (taking into account whether the beds previously occupied by the participating veterans were occupied by other eligible veterans or remained unoccupied) and the effect on the numbers of staff employed at such facilities; and of any plans for administrative action, and any recommendations for legislative action, that the Administrator considers appropriate to include in the report.

Subsection (b) of section 202 would amend the table of sections at the beginning of chapter 17 of title 38 to reflect the addition of new section 620B proposed by subsection (a) of this section of the Committee bill.

Section 203

Paragraph (1) of subsection (a) of section 203 would further amend present subchapter II of chapter 17 of title 38 to add a new section 620C, entitled "Respite care; pilot program", as follows:

Subsection (a) of new section 620C: Would authorize the Administrator, in furnishing health-care services under chapter 17 of title 38, to conduct a 4-year (fiscal years 1987–90) pilot program under which the VA would provide "respite care" services (as defined in new subsection (b) (discussed below)) to veterans with compensable (that is, not including disabilities rated at zero-percent disabling) service-connected disabilities. The Administrator would, as part of such pilot program, be required to evaluate the furnishing of such services.

Subsection (b) of new section 620C: Would define "respite care", for the purposes of the pilot program authorized under new section 620C, as hospital or nursing home care which (1) is of limited duration (generally approximately a week), (2) is furnished in a VA facility intermittently to a veteran who, while suffering from a chronic illness, resides primarily at home, (3) is furnished with the goal of enabling the veteran to continue to reside primarily at home, and (4) does not adversely affect the range of services, quality of care, or the established priorities for care furnished to other veterans seeking care at the facility where the respite care would be furnished. The determination as to element (4), regarding the impact of furnishing respite care on other functions at a given VA facility, is to be made by the head of the facility furnishing the care.

Paragraph (2) of subsection (a) of section 203 would amend the table of sections at the beginning of chapter 17 of title 38 to reflect the addition of new section 620C proposed by paragraph (1) of this section of the Committee bill.

Subsection (b) of section 203 would require the Administrator, to the extent that the VA furnishes respite care under new section 620C, to conduct an evaluation of the medical efficacy and cost-effectiveness of respite care and, not later than February 1, 1990, to submit a report on the result of that study to the Committees on Veterans' Affairs of the Senate and the House of Representatives, along with any plans for administrative action and any recommendations for legislation that the Administrator considers appropriate to include in the report.

Section 204

Subsection (a) of section 204 would further amend present subchapter II of chapter 17 of title 38 to add a new section 620D, entitled "Noninstitutional alternatives to institutional care; pilot program", as follows:

Paragraph (1) of subsection (a) of new section 620D: Would require the Administrator, subject to certain funding restrictions set forth in subsection (c) (discussed below) of the new section, to conduct a 4-year (calendar years 1987-90) pilot program under which the VA would furnish veterans who are eligible for VA institutional care—hospital, nursing home, or domiciliary care—with medical, rehabilitative, and health-related services in noninstitutional settings. The pilot program would be carried out at not less than 5 nor more than 10 demonstration project sites.

Paragraph (2) of subsection (a) of new section 620D: Would require the VA, in selecting veterans for participation in the pilot program, to accord priority to veterans (1) who have service-connected disabilities, (2) who are 65 years of age or older, (3) who are totally and permanently disabled, (4) who, by reason of blindness in both eyes, have only light perception or are in need of regular aid and attendance, and (5) who are suffering from Alzheimer's disease or another form of dementia.

Paragraph (1) of subsection (b) of new section 620D: Would require that in conducting the pilot program the VA furnish, only through contracts with appropriate public and private agencies, appropriate health-related services and assign to each participating veteran a VA health-care employee to furnish case management services (as defined in subsection (a)(1) of new section 620C as proposed by section 202(a) of the Committee bill (discussed above)).

Paragraph (2) of subsection (b) of new section 620D: Would—for the purposes of evaluating the cost-effectiveness of using certain non-VA health services where no VA facility in the vicinity of a demonstration project is providing such services—authorize the VA, in not more than two of the demonstration projects, to contract for appropriate health services with appropriate agencies which furnish them.

Paragraph (3) of subsection (b) of new section 620D: Would authorize the VA to enter into contractual arrangements with non-VA facilities furnishing services to veterans under the pilot program whereby the VA would provide those facilities with in-kind assistance—for example, the temporary, part-time services of VA employees and the use of VA supplies and equipment—and receive appropriate reimbursement therefor. Under such an arrangement, reimbursement could be by way of payment or reductions in charges otherwise payable by the VA for contractor services furnished to veterans, and the VA would be authorized to provide in-kind assistance for use solely in furnishing to veterans appropriate services under the pilot program. Funds received through reimbursement for in-kind assistance would be credited to funds allotted to the VA facility that provided the assistance.

Subsection (c) of new section 620D: Would provide that the total costs that the VA may incur in the conduct of the pilot program may not exceed 60 percent of the cost that the VA would have incurred during the period of the pilot program if the veterans participating in the program had, instead, been furnished nursing home care in VA facilities. In any 1 fiscal year, the cost of carrying out the pilot program would be prohibited from exceeding 65 percent of the cost that would have been incurred in furnishing direct VA nursing home care to those veterans.

Subsection (d) of new section 620D: Would require the VA, not later than April 1, 1990, to submit a report to the Committees on Veterans' Affairs of the Senate and the House of Representatives setting forth the Administrator's evaluation, findings, and conclusions regarding the pilot program, a description of the conduct of the program (including a description of the veterans furnished services and of the services furnished under the program), and any plans for administrative action and recommendations for legislation that the Administrator considers appropriate to include in the report.

Subsection (b) of section 204 would revise the table of sections at the beginning of chapter 17 of title 38 to reflect the addition of new section 620D proposed by subsection (a) of this section of the Committee bill.

Section 205

Subsection (a) of section 205 would amend paragraph (6) of present section 601, relating to the definition of the term "medical services" for purposes of chapter 17 of title 38, relating to VA health care, to include, in cases of veterans whose service-connected disabilities prevent them from procreating and who apply for such services prior to October 1, 1989, services to achieve pregnancy—such as *in vitro* fertilization or artificial insemination—in the veteran or the veteran's spouse. The effect of this amendment would be to clarify the VA's authority to furnish these services to such veterans.

Subsection (b) of section 205 would require the VA, not later than February 1, 1989, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report setting forth the VA's experience with the authority provided by the amendment proposed by subsection (a) of this section of the Committee bill and any plans for administrative action and recommendation for legislation that the Administrator considers appropriate to include in the report.

Section 206

Would further amend paragraph (6) of present section 601, relating to the definition of the term "medical services" for purposes of chapter 17 of title 38, relating to VA health care, to include, in cases in which certain persons—members of a veteran's immediate family or the legal guardian of a veteran, or an individual in whose household a veteran had certified an intention to live—were receiving counseling or other mental health services from the VA in connection with the treatment of a veteran and the veteran dies unexpectedly or while participating in a VA hospice program, such further counseling services for such persons for up to 6 months as the Administrator determines to be necessary to assist them with the emotional and psychological stress adjustment to the veteran's death.

Section 207

Subsection (a) of section 207 would amend subsection (b) of present section 610, relating to eligibility for domiciliary care, to authorize the VA to provide such care to veterans who are in need of such care for the purpose of receiving treatment or rehabilitation and who either have a service-connected disability or are incapacitated from earning a living and have no adequate means of support.

Subsection (b) of section 207 would amend subsection (g) of present section 622, relating to the meaning of the phrase "unable to defray expenses", to make a conforming amendment deleting a cross-reference to section 610(b)(2) since that phrase would no longer appear in that section as a result of the changes proposed by subsection (a) of this section of the Committee bill.

Section 208

Clause (1) of subsection (a) of section 208 would amend subsection (a) of present section 632, relating to contracts for the furnishing of the care and treatment of United States veterans by the Veterans Memorial Medical Center (hereinafter in this analysis referred to as the "VMMC") in the Republic of the Philippines, to extend by 3 years, through fiscal year 1989, the authority of the President to authorize the Administration to enter into contracts with the VMMC pursuant to which the United States would make payments, in cash or through in-kind assistance, for hospital care and medical services (including nursing home care) furnished to United States veterans as provided for in section 624.

Subclause (A) of clause (2) of subsection (a) of section 208 would amend subsection (b) of present section 632, relating to the authority of the Administrator to make grants of up to $500,000 annually to the VMMC in connection with the VMMC's furnishing of care and treatment of United States veterans, to extend by 3 years through fiscal year 1989, the authority to make such grants.

Subclause (B) of clause (2) of subsection (a) of section 208 would further amend subsection (b) of section 632 to add a new paragraph (4) as follows:

Subparagraph (A) of new paragraph (4): Would provide that grants made to the VMMC under subsection (b) of section 632 would be made on a biannual basis, with no more than one-half of the annual grant amount being paid during the first half of a fiscal year and with no more than one-half of the grant amount being paid during the second half of the fiscal year.

Subparagraph (B) of new paragraph (4): Would provide that no payment of a grant under subsection (b) of section 632 would be authorized until the Administrator submits to the appropriate Committees of the Congress, which would include the Appropriations and Veterans' Affairs Committees in each House, a report setting forth the amount of the preceding semiannual grant payment made to the VMMC and a detailed accounting of the uses made of that payment by the VMMC.

Paragraph (1) of subsection (b) of section 208 would provide that the amendments proposed to be made by the addition of subparagraph (A) of new paragraph (4) of section 632(b) (as proposed by subsection (a)(2)(B) of this section of the Committee bill (discussed above)) would take effect on October 1, 1986.

Paragraph (2) of subsection (b) section 208 would provide that the amendments made by the addition of subparagraph (B) of new paragraph (4) of section 632(b) (as proposed by subsection (a)(2)(B) of this section of the Committee bill (discussed above)) would take effect on April 1, 1987.

Section 209

Would amend present section 641 of title 38, relating to per diem payments made by the VA for care furnished to eligible veterans by State Veterans' Homes, to add a new subsection (d) as follows:

New Subsection (d): Would provide the per diem payments made by the VA for State Home care shall not be considered to be a third-party liability for any purpose under section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(25)), which generally requires that State Medicaid programs seek reimbursement from third parties having a legal liability to pay for care that has been paid for by Medicaid, and would provide that VA per diem payments for State Home care would not, for the purposes of Medicaid determinations of the reasonable costs of care provided by a State Home, be deducted from the operating or other costs of the State Home. Under current VA and Department of Health and Human Services interpretations of Social Security Act section 1902(a)(25), the VA's obligation under section 641 of title 38 to make per diem payments is considered a third-party liability and, in those cases in which a State Home receives Medicaid payments, the amounts of the VA per diem payments are deducted from the Medicaid payments.

Part B—Health-Care Administration

Section 211

Would amend paragraph (1) of subsection (b) of present section 218, relating to the authority of VA police officers to enforce Federal laws and VA regulations on VA property, to authorize the VA to enter into agreements with State and local governments pursuant to which VA police officers would be authorized to enforce the traffic and motor vehicle laws of such State or local governments by issuing citations for violations occurring on VA property over which the State has jurisdiction.

Section 212

Subsection (a) of section 212 would require the Administrator to establish within 180 days of the date of enactment and thereafter maintain an Ionizing Radiation Registry (hereinafter in the analysis of this section referred to as the "Registry"), the content of which would be prescribed by subsections (b) and (c) of this section of the Committee bill (discussed below).

Subsection (b) of section 212 would require that the Registry include the names of certain veterans (except as provided in subsection (c) of this section (discussed below)) who were exposed to ionizing radiation under the conditions described in section 610(e)(1)(B) of title 38, namely active-duty exposure to nuclear-blast radiation in connection either with participation in a test of nuclear device or with the occupation of Hiroshima or Nagasaki at the end of World War II. The veterans so exposed who would be required to be included in the Registry would be (1) those who either have applied for VA health care or have filed a claim for service-connected disability compensation based on a disability that may be associated with ionizing radiation exposure; and (2) those who have died and whose survivors have filed a claim for DIC based on a death resulting from such a disability. For each veteran listed, the Registry would have to include medical data regarding the veteran, including the veteran's medical history, latest VA-recorded health status, VA physical examinations and clinical findings, and a statement describing birth defects, if any and if voluntarily disclosed, in the veteran's natural children; data on any compensation or DIC claim involved, including the VA decisions and determinations relating to the claim; and an estimate of the veteran's radiation dosage under the conditions described in section 610(e)(1)(B).

Subsection (c) of section 212 would provide that the Administrator would not be required to include in the Registry the name of a veteran as to whom the claim for compensation or DIC was filed before the date of enactment unless the veteran or the survivor filing the DIC claim requests the VA to include the veteran's name in the Registry.

Subsection (d) of section 212 would, for the purpose of the Registry, require the Administrator to complete and consolidate relevant information maintained by the VA's Departments of Medicine and Surgery and of Veterans' Benefits and Board of Veterans' Appeals, by the Defense Nuclear Agency of the Department of Defense (DOD), and by any other subdivision of the VA or DOD.

Subsection (e) of section 212 would require the Secretary of Defense to provide the Administrator such information maintained by any part of DOD as the Administrator considers necessary for the Registry.

Subsection (f) of section 212 would provide that, for the purpose of this section, the term "veteran" would have the meaning provided in section 101(2) of title 38 and also include a person who died on active duty.

Section 213

Would amend clause (8) of present section 4105(a) of title 38, relating to the qualifications that a psychologist must have—generally a doctoral degree, an internship, and a State license—in order to be eligible for appointment in the VA's Department of Medicine and Surgery, so as to authorize the waiver, on a case-by-case basis, of the internship and licensure requirements for a psychologist to be employed to conduct research who is to have no responsibility for the furnishing of patient-care services.

Section 214

Subsection (a) of section 214 would amend present section 1866 (a)(1) of the Social Security Act, relating to the terms to which hospitals must agree in order to receive Medicare payment for inpatient care provided to Medicare beneficiaries, to add a new subparagraph (k) to require the hospitals to agree to provide care under section 603 of title 38, relating to the VA's contract-care authority, in accordance with the admission practices and payment methodolgy and amounts that the Secretary of Health and Human Services (HHS) and the Administrator of Veterans' Affairs prescribe in implementation of section 603. This new subparagraph is patterned after a subparagraph (i) of Social Security Act section 1866(a)(1), which requires that hospitals participating in the Medicare program agree to accept Department of Defense contract-care patients in accordance with the terms prescribed in joint regulations promulgated by the Secretaries of HHS and of Defense.

Subsection (b) of section 214 would provide that subsection (a) of this section of the Committee bill shall apply to agreements entered into or renewed after the date of enactment, but not to any inpatient services provided pursuant to admissions that occur prior to January 1, 1987.

Paragraph (1) of subsection (c) of section 214 would require the Secretary of HHS to report to the Congress periodically on the number of hospitals that terminate or fail to renew their agreements under Social Security Act section 1866 (i.e., cease their participation in the Medicare program) as a result of the additional conditions imposed under the amendments made from subsection (a) of this section of the Committee bill (discussed above).

Paragraph (2) of subsection (c) of section 214 would require the Administrator, not later than April 1, 1987, to report to the Senate and House Committees on Veterans' Affairs regarding implementation of this section and thereafter notify the Committees in the event that any hospital terminates or fails to renew its Medicare agreement under Social Security Act section 1866.

Section 215

Subsection (a) of section 215 would amend subsection (a) of present section 4103, relating to the organization and staffing of the Office of the VA's Chief Medical Director, to make changes in the descriptions of the qualifications for certain positions in that office.

Clause (1) of subsection (a) of section 215 would amend subsection (a) of present section 4103 so as to require that all individuals appointed under that be qualified in the administration of health services. Under current law, that criterion expressly applies only to the positions of the two Assistant Chief Medical Directors who need not be physicians or dentists.

Clause (2) of subsection (a) of section 215 would amend clause (3) of subsection (a) of present section 4103, relating to the appointment of the Associate Deputy Chief Medical Director, so as to establish a second such position and to permit the appointment of "persons with specified qualifications" (defined by a new sentence at the end of section 215(a) as proposed to be added by clause (7) of this section of the Committee bill (discussed below) as meaning a person who meets the requirements set forth in clauses (1) through (8) of subsection (a) of present section 4105, that is, a physician, dentist, nurse, VA medical facility (hospital, domiciliary, medical center, or outpatient clinic) director, podiatrist, optometrist, pharmacist, or psychologist, respectively) to such positions (but allowing only one of the positions to be filled by an individual who is so qualified solely by virtue of having been a VA facility director). Under current law, only a physician may be appointed Associate Deputy Chief Medical Director.

Clause (3) of subsection (a) of section 215 would amend clause (4) of subsection (a) of present section 4103, relating to the appointment of Assistant Chief Medical Directors (ACMDs), so as to permit the appointment of "persons with specified qualifications" (defined, as discussed above under clause (2) of this subsection of the bill, by the amendment proposed by clause (8) of this subsection) to that position but allowing only 2 of the 8 specified ACMD positions to be filled by individuals who are so qualified solely by virtue of being or having been a VA medical facility director. Under current law, 7 out of the 8 ACMDs must be either physicians or dentists and the 1 ACMD not required to be a physician or dentist need only be "qualified in the administration of health services" and need never have been a VA medical facility director.

Clause (4) of subsection (a) of section 215 would amend clause (5) of subsection (a) of present section 4103, relating to the appointment of Medical Directors, so as to permit the appointment of "persons with specified qualifications" (defined, as discussed above under clause (2) of this subsection of the bill, by the amendment proposed by clause (8) of this subsection) to that position.

Clause (5) of subsection (a) of section 215 would amend clause (6) of subsection (a) of present section 4103, relating to the appointment of the Director of Nursing Service, to specify that the Administrator's appointment of a person to that position must be based upon the recommendation of the Chief Medical Director. This change conforms the procedure for selecting the Nursing Service Director in this respect to the procedure provided for in section 4103(a) for selecting the Deputy Chief Medical Director, the Associate Deputy Chief Medical Director, the Assistant Chief Medical Directors, the Medical Directors, and medical facility directors, as to each of which positions the Administrator's appointment power is limited to persons recommended by the Chief Medical Director.

Clause (6) of subsection (a) of section 215 would amend clause (7) of subsection (a) of present section 4103, relating to the appointment of the Director of Pharmacy Service, the Director of Dietetic Service, the Director of Podiatric Service, and the Director of Optometric Service, to add two requirements, first, that a person appointed to one of those positions be licensed in the appropriate service field; and second, that the Administrator's appointment of a person to such a position be based on the recommendation of the Chief Medical Director. The latter change conforms the procedure for selecting persons for these positions in this respect to the procedures provided for in section 4103(a) for selecting the Deputy Chief Medical Director, the Associate Deputy Chief Medical Director, the Assistant Chief Medical Directors, the Medical Directors, and medical facility directors.

Clause (7) of subsection (a) of section 215 would further amend subsection (a) of present section 4103 so as to add a sentence defining, for the purpose of that subsection, the term "person with specified qualifications" as meaning a person who meets the requirements set forth in clauses (1) through (8) of subsection (a) of section 4105, relating to the qualifications for appointments to certain positions in the Department of Medicine and Surgery, that is, the positions of physician, dentist, nurse, VA medical facility (hospital, domiciliary, medical center or outpatient clinic) director, podiatrist, optometrist, pharmacist, or psychologist.

Subsection (b) of section 215 would make a technical amendment to clause (3) of subsection (b) of present section 4103 to correct a typographical error.

Part C—Medical Facility Construction and Planning

Section 221

Paragraph (1) of subsection (a) of section 221 would revise present section 5009 of title 38, relating to the Administrator's authority to construct, alter, operate, and maintain parking facilities at VA medical facilities, to establish and collect parking fees at such facilities, and to maintain a revolving fund into which the fees are to be deposited and authorizing certain appropriations to the revolving fund, as follows:

Subsection (a) of revised section 5009: Would, for the purpose of section 5009, define the term "garage" as a structure (or part of a structure) in which vehicles may be parked, would provide that the term "parking facility" includes a surface parking lot and a garage, and would define the term "eligible person" as an individual to whom the Administrator is authorized to furnish examination or treatment. Thus, a garage could be a building devoted solely to the parking of vehicles or the parts of a building used for parking, for example, basement or roof-top parking.

The term "eligible person" is used in subsection (c)(2) (discussed below) of section 5009 as proposed to be revised to denote a category of individuals, together with veterans, for whom a parking-fee exemption would be provided.

Subsection (b) of revised section 5009: Would authorize the Administrator, for the purpose of accommodating the vehicles of VA medical facilities' employees, vehicles used to carry veterans (and others eligible for VA care) to or from VA facilities for examination or treatment, and the vehicles of visitors and of others having business at VA medical facilities—

to construct or alter parking facilities at VA medical facilities;

to acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, land and interests in land that the Administrator considers necessary for the construction or alteration of parking facilities;

to acquire by purchase, lease, condemnation, donation, exchange, or otherwise, any facility that the Administrator considers necessary for use as a parking facility, including the site for a parking facility; and

to operate and maintain parking facilities.

These provisions continue and clarify existing authorities in present section 5009 and in section 5003, relating to the authority to construct, alter, and acquire medical facilities.

Paragraph (1) of subsection (c) of revised section 5009: Would provide that, except as provided in paragraph (2) of revised section 5009(c) (discussed below), providing certain exemptions from the charging of parking fees, each VA employee, visitor, and other individual having business at a VA medical facility at which fees have been established under subsection (d), mandating fees in certain cases, or subsection (e), authorizing fees in all other cases, of revised section 5009 (discussed below) must be charged the applicable fee for parking at the medical facility.

Under current law (present section 5009(b)(1)), parking fees are authorized to be charged at all VA medical facilities for the accommodation of vehicles other than those used to transport veterans to or from medical facilities for examination or treatment or to transport veteran-patients' visitors, but parking fees are not mandatory.

Paragraph (2) of subsection (c) of revised section 5009: Would prohibit parking fees from being charged under this subsection of revised section 5009 for the accommodation of any vehicle used to transport to or from a VA medical facility either a veteran in connection with the veteran seeking examination or treatment or a volunteer worker in connection with the worker performing services for the benefit of veteran-patients at the facility. The identification of individuals as volunteer workers would be made in accordance with regulations to be prescribed by the Administrator for this purpose.

Under current law (present section 5009(b)(1)), the exemptions from parking fees at VA medical facilities are for vehicles used to transport veterans to or from a medical facility for examination or treatment or veteran-patients' visitors.

Paragraph (3) of subsection (c) of revised section 5009: Would require the Administrator to collect, or provide for the collection of (such as through the use of a contractor), parking fees charged under this subsection.

Paragraph (1) of subsection (d) of revised section 5009: Would require the Administrator to prescribe a schedule of parking fees to be charged at all parking facilities used in connection with a VA medical facility at which a garage that the VA has constructed or acquired at a cost exceeding $500,000 (or, in the case of an acquisition by lease, $100,000 per year) is first opened for use after September 30, 1986, or at which a project for the alteration of a garage at a cost exceeding $500,000 is completed after September 30, 1986.

Current law does not mandate the charging of parking fees at any VA facilities.

Paragraph (2) of subsection (d) of revised section 5009: Would require that a parking fee schedule prescribed for a VA medical facility under paragraph (1) of this subsection of revised section 5009 (discussed above) be designed to establish fees which the Administrator determines are reasonable under the circumstances and which, at a minimum, would provide revenue sufficient to recover the costs of operating and maintaining all parking facilities at the medical facility.

Subsection (e) of revised section 5009: Would restate the Administrator's existing authority to prescribe a schedule of parking fees at a VA medical facility at which fees would not be made mandatory by subsection (d)(1) (discussed above) of revised section 5009, would require that any such schedule of discretionary fees be designed to establish fees which the Administrator determines to be reasonable under the circumstances, would require that any such schedule of fees cover all parking facilities used in connection with the medical facility, and would authorize the Administrator, in prescribing discretionary fees, to consider the costs of operating and maintaining parking facilities at the medical facility involved.

Subsection (f) of revised section 5009: Would provide that the Administrator may contract, by lease or otherwise, with persons, firms, or corporations for the operation of parking facilities at medical facilities under such terms and conditions as the Administrator shall prescribe and may do so without regard to laws requiring full and open competition.

This provision restates the substance of current law (present section 5009(b)(2)), and updates the wording of the competitive-contracting exception in keeping with the terminology used in the Federal Property and Administrative Services Act of 1949.

Subsection (g) of revised section 5009: Would—subject to subsections (h) and (i) (discussed below) of revised section 5009, which would require that amounts appropriated pursuant to this subsection be administered as a revolving fund and would impose restrictions on the expenditure of funds from the revolving fund and on the making of such appropriations—authorize the appropriation of such amounts as are necessary to finance, in whole or in part, the construction, alteration, acquisition (including site acquisition), operation, and maintenance of parking facilities at VA medical facilities.

Current law, present section 5009(c)(1), generally authorizes appropriations for these purposes and requires the appropriations to be administered as a revolving fund for parking purposes, but it excludes from that authorization any appropriation of funds for projects for the construction or alteration of any garage or parking facility involving the expenditure of more than $2 million. Thus under current law, the authorization for a VA medical facility parking facility project at a cost exceeding $2 million is provided under section 5003 of title 38 and an appropriation for such a project is subject to the House and Senate Committees on Veterans' Affairs approval process under section 5004(a) (described below in the discussion of subsection (i)(2)).

Paragraph (1) of subsection (h) of revised section 5009: Would require that amounts appropriated pursuant to subsection (g) (discussed above) of revised section 5009 and parking fees collected under subsection (c) (discussed above) of revised section 5009 be administered as a revolving fund and would provide that such amounts and fees would be available without fiscal year limitation. This paragraph continues an existing requirement in present section 5009(c)(1) that amounts appropriated under section 5009 and income from parking fees be administered as a revolving fund and adds the provision expressly clarifying the availability of the funds without fiscal year limitation.

Paragraph (2) of subsection (h) of revised section 5009: Would generally require that the revolving fund be deposited in a checking account with the Treasurer of the United States, but would authorize the Administrator to deposit in depositories selected by the Administrator such amounts as the Administrator determines necessary to establish and maintain accounts for the operation and maintenance of parking facilities.

This paragraph restates current law (present section 5009(c)(2)).

Paragraph (3) of subsection (h) of revised section 5009: Would provide that, with the exception of expenditures for investigations and studies, surveys, designs, plans, working drawings, specifications, and similar actions not directly involved in physical construction of a structure, no funds other than funds from the revolving fund may be expended after September 30, 1986, for the construction, alteration, or acquisition (including site acquisition) of a garage at a VA medical facility. However, under subsection (b)(2)(B) of this section of the Committee bill (discussed below) this provision would not apply to the expenditure of funds appropriated for a fiscal year prior to fiscal year 1987 for parking facility projects.

Paragraph (1) of subsection (i) of revised section 5009: Would provide that funds from the revolving fund may be expended only for the construction, alteration, acquisition (including site acquisition), operation, and maintenance of parking facilities at VA medical facilities and only as provided for in appropriation Acts.

This provision generally restates a current-law restriction (in present section 5009(c)(1)) on the use of the revolving fund.

Paragraph (2) of subsection (i) of revised section 5009: Would provide that for the purpose of section 5004(a)(2)—which provides that, if the House and Senate Committees on Veterans' Affairs have adopted during a fiscal year resolutions with identical texts approving major VA medical facility projects (*i.e.*, construction, alteration, or acquisition projects involving the expenditure of over $2 million each), it is not in order in either House to consider a bill, resolution, or amendment making an appropriation that may be expended for a major VA medical facility project for that fiscal year or the ensuing fiscal year except for projects that conform to those approved in the Committees' resolutions—a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving the expenditure of more than $2 million for the construction, alteration, or acquisition (including site acquisition) of a parking facility at a VA medical facility shall be considered to be a bill, resolution, or amendment making an appropriation that may be expended for a major VA medical facility project. Funds proposed in such bill, resolution, or amendment to be appropriated to the revolving fund would be considered to be funds in the revolving fund. Thus, the Committee-approval process in section 5004(a)(2), which currently applies to all VA medical projects involving costs exceeding $2 million, including projects for parking facilities, would continue to apply to parking facility projects involving costs exceeding $2 million when funding for them is provided through the revolving fund rather than through the VA's major construction appropriation account.

Subsection (j) of revised section 5009: Would provide that nothing in revised section 5009 would preclude funds appropriated to the VA's medical care account from being used for the operation and maintenance of parking facilities at VA medical facilities. Under current practice, appropriations for the operation and maintenance of parking facilities at VA medical facilities are generally requested and provided through the VA's medical care account as part of the cost of operating and maintaining the medical facilities. The Committee bill would preserve that option while also making the revolving fund available to provide funding, in whole or in part, for operation and maintenance costs.

Paragraph (2) of subsection (a) of section 221 would amend the table of sections at the beginning of chapter 81 of title 38 to reflect the revision of the heading of section 5009 from "Garages and parking facilities" to "Parking facilities" as proposed in paragraph (1) (discussed above) of this subsection of the Committee bill.

Paragraph (1) of subsection (b) of section 221 would provide that except as provided in paragraph (2) (discussed below) of this subsection of the Committee bill, the amendments made by this section of the Committee bill shall take effect on the date of enactment.

Division (i) of subparagraph (A) of paragraph (2) of subsection (b) of section 221 would provide that the amendments made by this section of the Committee bill shall not abrogate the provisions of a collective bargaining agreement which is in effect on the date of enactment and includes a specified termination date for the agreement. Thus, in the case of a VA employees' collective bargaining agreement which is in effect when the Committee bill is enacted, that provides for free parking, and that has a fixed termination date, no fees in contravention of the free-parking provision of that agreement would be permitted, for the duration of such agreement, to be charged under section 5009 of title 38 as proposed to be revised by the Committee bill.

Division (ii) of subparagraph (A) of paragraph (2) of subsection (b) of section 221 would provide that, in the case of a collective bargaining agreement which is in effect on the date of enactment but does not at that point specify a termination date, the requirements as well as the authority in section 5009 of title 38 as proposed to be revised by this section of the Committee bill to establish and collect parking fees would take effect on January 1, 1988, notwithstanding the provisions of that agreement. Thus, a collective bargaining agreement that on the date of enactment has no specified termination date—as in the case of an agreement that has been entered into or extended for an indefinite period—would not preclude the charging of parking fees on or after January 1, 1988.

Division (iii) of subparagraph (A) of paragraph (2) of subsection (b) of section 221 would provide that, if a collective bargaining agreement described in division (i) (discussed above) of this subparagraph of the Committee bill is modified, extended, or renewed after the date of enactment, division (i) would no longer, as of the date of the modification, extension, or renewal, apply to the agreement. Thus, the modification, extension, or renewal would, in effect, be considered a new, post-enactment-date agreement for the purpose of division (i).

Subparagraph (B) of paragraph (2) of subsection (b) of section 221 would delay the effect of subsection (h)(3) of section 5009 of title 38 (as proposed to be revised by subsection (a)(1) of this section of the Committee bill) which, as noted above, after September 30, 1986, generally prohibits the use of funds other than funds from the revolving fund for the construction, alteration, or acquisition of a parking facility at a VA medical facility, so that subsection (h)(3) would not apply to the expenditure of funds appropriated for a fiscal year prior to fiscal year 1987 for the construction, alteration, or acquisition (including site acquisition) of a parking facility at a VA medical facility.

TITLE III—MISCELLANEOUS PROVISIONS

Section 301

Would repeal or modify certain provisions of title 38, United States Code, requiring reports to be submitted to the Congress or the President by the Administrator of Veterans' Affairs.

Subsection (a) of section 301 would amend present section 210(c)(3) of title 38, relating to the Administrator's authority to grant certain requests for equitable relief, to eliminate the requirement for an annual report to the Congress regarding the Administrator's actions under that section.

Subsection (b) of section 301 would amend present section 612(b)(4), requiring the Administrator to submit to the Congress certain reports on spending for the VA's contract dental-care program, to relieve the Administrator of the requirements for submitting to the Congress any such reports with respect to a fiscal year if VA documents submitted in justification of the President's request for VA programs for that fiscal year contain certain data regarding the contract spending. The requisite information would be (1) the actual level of spending for VA dental care in the fiscal year preceding the fiscal year in which the budget is submitted, (2) a current estimate of the level of such spending in the fiscal year in which the budget is submitted, and (3) the amount included in the budget for such care.

Subsection (c) of section 301 would amend present section 4119(g)(2)(C), requiring the Administrator to submit to the President every 2 years a report on special pay for VA physicians and dentists, to require that the report be submitted every 3 years.

Subsection (d) of section 301 would repeal present section 5057 of title 38, requiring certain annual reports on the now-defunct Exchange of Medical Information (EMI) program under section 5054 and on the sharing of specialized resources under section 5053, and would amend section 5053 to add a new subsection (e), as follows:

New subsection (e) of section 5053: Would, in light of the repeal of section 5057, require the Administrator to submit to the Congress, within 60 days after the end of each fiscal year, a report on the sharing of special resources during that fiscal year.

RECORD OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a record of votes cast in person or proxy by members of the committee on Veterans' Affairs at a June 26, 1986, meeting to consider S. 2422.

The Committee agreed to report S. 2422, with an amendment in the nature of a substitute, favorably to the Senate by a voice vote.

Prior to that vote, two motions to amend the Committee bill were made. The Committee did not agree to a motion made by Senator Cranston to modify the Committee bill so as to prohibit the excessing of certain parcels of land under the jurisdicion of the Veterans' Administration in California. The record vote of 5-5 was as follows:

NAYS (5)	YEAS (5)
Frank Murkowski	Alan Cranston
Alan Simpson	Spark Matsunaga
Strom Thurmond	Dennis DeConcini
Jeremiah Denton	George Mitchell
Rudy Boschwitz	John Rockefeller

The Committee agreed to a motion made by Senator Mitchell to modify the Committee bill so as to specify that VA State Home per diem payments are not to be considered "third-party liabilities" for purposes of payments under the Medicaid program. The record vote of 6-5 was as follows:

YEAS (6)	NAYS (5)
Robert Stafford	Frank Murkowski
Alan Cranston	Alan Simpson
Spark Matsunaga	Strom Thurmond
Dennis DeConcini	Jeremiah Denton
George Mitchell	Rudy Boschwitz
John Rockefeller	

AGENCY REPORTS

JUL 1 1986

Honorable Frank H. Murkowski
Chairman, Committee on Veterans'
Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to respond to your request for the views of the Veterans' Administration (VA) on S. 2388, a bill "To amend title 38, United States Code, to improve various aspects of Veterans' Administration health-care programs, to provide eligibility to new categories of persons for readjustment counseling from the Veterans' Administration, to authorize the Administrator of Veterans' Affairs to establish programs for the furnishing of respite care to certain chronically ill service-connected disabled veterans and of noninstitutional care to certain veterans, to extend certain expiring authorities, and for other purposes."

S. 2388 contains several provisions favored by the VA, specifically amendments to the law which would authorize VA police to enforce traffic laws on VA property, clarify domiciliary care eligibility, authorize a respite care pilot program, and extend, respectively, VA's authority to furnish care in the Philippines, and VA's authority to make grants for State homes. Other major provisions of the bill would authorize VA to provide bereavement counseling, authorize VA to provide services to overcome infertility, mandate that VA conduct a pilot program to furnish veterans with primarily nonmedical support services as an alternative to institutional care, and permanently authorize the independent living services program. Detailed comments follow.

Section 2 of the bill would amend section 218 of title 38 to authorize Veterans Administration police officers to enforce State and local traffic laws for acts occurring on Veterans Administration property. This provision is identical to an administration proposal which was transmitted to the Committee on March 10, 1986.

Current law authorizes VA police officers to enforce only Federal laws and regulations promulgated by the Administrator. Because of the general unwillingness of United States District Court judges to themselves hear violations of agency regulations, such violations may be prosecuted only in the local districts where District Courts have entered orders or published rules permitting us to refer violations of these regulations occurring on VA property to U.S. Magistrates for disposition. While most district courts have entered such rules, not all have done so. Under these circumstances, authority for effective security and traffic control at some VA facilities remains seriously deficient. This measure would provide authority for the VA, with the cooperation of State and local authorities, to correct those situations where VA police officers lack authority to control automobile traffic and parking on VA property. Such authority would improve the VA's ability to control automobile parking and traffic on VA grounds by the issuance of citations under State and local codes and the prosecution of those violations in State and local traffic courts. We strongly support this measure.

We estimate the costs of enactment of section 2 would be insignificant.

Section 3 of the bill would authorize VA to furnish services to achieve pregnancy in a veteran, or a veteran's spouse, if necessary to overcome a service-connected disability which impairs the veteran's procreative ability. We note that the Office of Technology Assessment is embarked on a detailed analysis of this subject. Considerably more research and inquiry is necessary in this field; therefore, we recommend against this provision.

We estimate that the costs of section 3 would be $.4 million in the first fiscal year and $3.5 million over five fiscal years.

Section 4 of the bill would amend title 38 to authorize VA to provide a period of bereavement counseling to family members who were receiving VA counseling services in connection with treatment of the veteran at the time of death. Such services could be authorized for up to six months under this provision. We recommend modification of this measure to limit the provision of bereavement counseling to services furnished in a hospice setting. With such a revision, we would favor section 4. We project that the enactment of such a provision would not impose significant additional costs.

We estimate that the costs of section 4 would be $.1 million in the first fiscal year, and $.5 million over five fiscal years.

Section 5 of the bill would amend title 38 to change and clarify the eligibility criteria for domiciliary care. It would provide that to be eligible for domiciliary care, a veteran must need such care and be either (1) service-connected, or (2) be incapacitated from earning a living and have no adequate means of support.

Under existing domiciliary care eligibility provisions the law appears to impose more stringent requirements on the service-connected veteran than on other veterans. Thus, to be eligible for domiciliary care, the service-connected veteran must have a permanent disability, tuberculosis, or a neuropsychiatric ailment; be incapacitated from earning a living; and have no adequate means of support. In contrast, statutory provisions governing domiciliary eligibility for other veterans impose none of these requirements, and condition eligibility on an "inability to defray" and a need for such care. We believe the proposed change in eligibility rectifies this inequity. We favor its enactment.

We estimate that enactment of section 5 would not impose additional costs.

Section 6 of the bill would authorize the VA to provide readjustment counseling to (1) persons still on active duty with the Armed Services who served during the Vietnam era, and (2) to those who served in the Armed Services after the Vietnam era in combat situations. We believe our readjustment counseling program has been an effective one, and one which could benefit active duty personnel who served in Vietnam as well as in combat areas such as Grenada and Lebanon. In that connection, we would support an amendment to section 612A to extend eligibility for such services to those veterans who served on active duty during a period after May 7, 1975, in an area in which hostilities occurred. We see no need, however, for extending such eligibility to active duty members.

We estimate that section 6 would impose insignificant costs.

Section 7 of the bill would authorize establishment of a three-year pilot program under which VA may furnish respite care to certain compensably rated service-connected veterans. The measure would authorize the provision of VA hospital or nursing home care of limited duration, on an intermittent basis for the purpose of helping the veteran to continue to reside primarily at home. This provision is very similar to an Administration proposal which was transmitted to the Committee in the first session of the 99th Congress.

Currently VA lacks clear statutory authority to furnish care in VA health facilities on a prearranged basis to chronically ill veterans in order to provide brief periods of respite to care givers in the veterans' household. The clinical objective of providing institutionally based respite care is to support the care giver's role in caring for a chronically ill patient at home. The patient may also benefit directly by virtue of treatment received in the institution. The critical element of respite arrangements is that the respite is planned in advance for the benefit of the care giver, rather than being incidental to the provision of necessary medical care of the patient.

It is generally recognized that most chronically ill persons who do not need hospital services can be most effectively, most economically, and overall most satisfactorily cared for if, through the assistance of family or other members of the household, they are able to live at home. At the same time, there is genuine recognition that such arrangements for care of a patient at home place severe physical and emotional burdens on the care givers and the household generally. These difficulties often become exacerbated during the course of illness, particularly if there is no break in the continuum of the patient's care.

This provision would authorize VA to provide respite care to patients to whom we owe the highest priority. It would also provide a basis for our evaluating the efficacy of the respite care concept in avoiding or delaying the need for prolonged institutionalization, and, therefore, its potential for cost-savings. Accordingly, we strongly support this provision.

We estimate that section 7 would be implemented within existing resources.

Section 8 of the bill would require VA to conduct a 4-year pilot program at ten geographic sites through which participating veterans would receive appropriate health and health-related services such as homemaker, personal care, and transportation services. VA would be required to furnish appropriate "health-related" services solely by contract with appropriate public and private agencies, as well as to provide "case management" services (as defined) to each participant. The measure sets additional requirements as to the program's design, and requires VA to evaluate the effectiveness of providing alternative modes of care, as well as to assess the impact of that effort.

VA favors the basic concept of developing alternatives to institutional care, and, accordingly, we operate programs such as adult day health care and hospital based home care as alternatives to institutional care and have sought authority such as proposed in section 7 of this bill to operate a respite care pilot program. We do not favor the particular program that is proposed, however. Although the pilot program might provide VA with the means to evaluate the benefits of providing new health-related services, the provision is unduly prescriptive in directing the scope and operation of the pilot program. We object to the fact that this provision would mandate the conduct of this program.

Moreover, we see no need for Congress to mandate the design of such an effort, such as in setting in law specific minimum numbers of geographic areas, the use of specific numbers of VA geriatric evaluation units, and the degree to which VA must contract for services. In many respects, the requirements of the measure are so specific that they deprive VA of the latitude needed to derive real benefits from any such pilot program.

We estimate the costs of section 8 to be $9.2 million in the first fiscal year and $49.2 million over five fiscal years.

Section 9 of the bill would amend section 621 of title 38, which directs the Administrator to promulgate rules and regulations which are necessary and appropriate for the efficient provision of VA health care. The statute refers only to hospital, nursing home, and domiciliary care, all inpatient care programs, but does not refer to medical services, which include outpatient care. We agree that it is appropriate to add references to "medical services," as this provision does, making the section applicable to care furnished on an outpatient basis. We see no reason, however, to delete the long-standing provision currently set forth in section 621(2), and we oppose that aspect of the provision.

We estimate that enactment of section 9 would not impose additional costs.

Section 10 of the bill would extend the VA's authority to provide payment for care to U.S. veterans in the Philippines in the Veterans Memorial Medical Center (VMMC) and to make grants of up to $500,000 annually to the VMMC for replacing and upgrading equipment and rehabilitating its physical plant and facilities. Before and during the Second World War, thousands of Filipinos served in or with the United States Armed Forces in the Philippines. Many of these veterans were casualties of that War. This Country has consistently reaffirmed its moral obligation to provide medical care and treatment for these veterans.

In 1948, Congress authorized a five-year grant program to provide medical benefits to Filipino veterans, including the construction and equipping of a hospital in Luzon. That hospital, which is now the Veterans Memorial Medical Center, was turned over to the Philippine Government in 1955. However, Congress provided and regularly extended authority to VA to provide care to United States veterans in the VMMC and grants to that facility to continue the high standard of medical care to United States veterans.

Although we believe that it has always been the clear intent of Congress that the Philippine Government should take full responsibility for the VMMC, we believe that the authority to provide grants to the VMMC, as well as authority to provide contract care to U.S. veterans in that facility should be continued. To terminate these grants now could jeopardize the operation of the VMMC and its ability to satisfactorily maintain its complex and replace and update essential medical equipment and supplies. Because of the need for VA assistance for these veterans, we also recommend that the authorities to provide contract care and grants be extended for an additional five years, through September 30, 1991, instead of three more years, as proposed in this measure.

We estimate the costs of section 10 to be $.5 million in the first fiscal year and $1.5 million over five fiscal years.

Section 11 of the bill would amend the provisions of the chapter 31 pilot program of independent living services (38 U.S.C. § 1520). The amendments would make the program a permanent part of the benefits and services provided under chapter 31; remove the limitation that the program be conducted in various geographic regions of the United States; and eliminate the report to Congress required by the original provisions of law.

Based upon initial study data concerning implementation of this pilot program, the VA determined that the pilot program of independent living services and assistance produced favorable results for some of the veterans who availed themselves of services. However, the data base for the study was too small to draw definitive conclusions concerning effectiveness of the program. Additional data over a longer period would provide a better evaluation of the outcomes of the program. Therefore, in a report entitled "Supplemental Report of the Program of Independent Living Services and Assistance, Section 1520(b), title 38, United States Code," submitted to Congress on August 26, 1985, the VA proposed that the program of independent living services be continued as a pilot project for a period of 3 additional years. Accordingly, we would oppose enactment of the provisions of this section, but would urge favorable consideration be given to the proposed pilot program extension we have recommended.

We estimate that enactment of section 11 would not impose significant new costs.

Section 12 of the bill would extend, for three years, VA's authority to provide grants to States for the construction or acquisition of State home facilities for furnishing domiciliary and nursing home care, and for remodeling or renovation of State home facilities for furnishing hospital, domiciliary and nursing home care. This authority will expire at the end of this fiscal year. VA strongly supports an extension of this program.

This important cost-sharing program makes it possible to extend medical care to veterans beyond that which can be provided in VA facilities. It is a cost-effective approach, with Federal participation limited to no more than 65 percent of the cost of any one project and a minimal per diem payment to help defray state home operating costs.

Honorable Frank H. Murkowski

There are now State homes in 35 States. Nursing home care is provided in 45 homes, domiciliary care in 43 homes, and hospital care in seven homes. From Fiscal Year 1966 through Fiscal Year 1985, approximately $179 million was obligated in support of new nursing home care and domiciliary beds and for remodeling and modifying existing buildings. Eighty-three percent of the funds have been used for bed-producing projects. The remainder has been used for remodeling and renovation. The estimated cost of extending this authority for Fiscal Year 1987 would be $42.4 million and $42 million for each of the subsequent years. Because of the importance and effectiveness of this program, we favor extending this authority for an additional five years instead of three years, as proposed in the bill.

In this connection we also recommend that you eliminate the limitation in law which provides that no one State may receive in any fiscal year more than one-third of the amount appropriated in that fiscal year for grants to assist States in the acquisition or construction of State veterans' homes. This limitation was enacted to prevent perceived abuses in the grant program. At the time, it was believed that few States had received inequitably large grants. This limitation has not, however, prevented the approval of any State home grant request. Because Congress typically permits funds appropriated for State home construction grants to remain available for three fiscal years, a large grant can be funded from more than one fiscal year's appropriation. We proposed repeal of this provision as part of our legislative program because the only effect of this limitation is to delay approval of large State home grant applications until enough money to fund the grant can be accumulated from different fiscal years' appropriations.

We estimate the costs of section 12 to be $42.0 million in the first fiscal year, and $210.0 million over five fiscal years. We estimate the total costs of this bill to be $52.2 million for Fiscal Year 1987 and $264.7 million for the first five fiscal years.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administrations' program.

Sincerely,

THOMAS K. TURNAGE
Administrator

JUL 1 1986

Honorable Frank H. Murkowski
Chairman, Committee on Veterans'
Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to respond to your request for the views of the Veterans' Administration (VA) on S. 2445, 99th Congress, a bill "To amend title 38, United States Code, to improve certain Veterans' Administration health-care programs."

Major provisions of S. 2445, an omnibus health care bill, would authorize VA to provide "respite care" to veterans eligible for hospital or nursing home care, authorize a program of noninstitutional care as an alternative to inpatient care, authorize a contract residential care program for chronically mentally ill veterans, alter the process by which VA awards grants for construction of State homes, and require VA to establish a registry of veterans exposed to ionizing radiation. Although we support in principle the purposes of several provisions of S. 2445, we do not, as discussed below, favor enactment of this bill.

Section 2 of the bill would authorize VA to provide needed "respite care" to veterans eligible for hospital or nursing home care. Respite care represents a relatively new concept for VA which we would prefer to evaluate on a pilot basis. In essence, "respite" care refers to providing brief periods of care in VA health facilities on a prearranged basis to chronically-ill persons in order to relieve members of the veteran's family and others in the household from the severe physical and emotional burdens of care giving. The difficulties of caring for these veterans at home often become exacerbated during the course of illness, particularly if there is no break for the family. The patient may also benefit directly from respite care by virtue of treatment received in the institution. The critical element of respite arrangements is that the respite is planned in advance for the benefit of the care giver, rather than being incidental to the provision of necessary medical care of the patient.

VA currently lacks clear statutory authority to furnish respite care. Under our respite care legislative proposal, which we would suggest as an alternative to section 2 of this bill, a program would be initiated on an evaluative, pilot basis, and its scope would be limited to those veterans having the highest claim to VA health care, service-connected veterans. Under the proposal, we would anticipate providing respite care at a limited number of facilities in conjunction with hospital based home care programs in one-week lengths of stay for up to four times a year. Care would be furnished in beds that would otherwise be unoccupied, and, since respite patients generally would receive nursing level care, these beds would be staffed accordingly. We would also limit the scale of the pilot program so that there would be no additional costs. We also believe that a three-year program would provide us with sufficient experience to determine the future of respite care by VA.

We estimate that the cost of section 2 would be $94.3 million in Fiscal Year 1987, and $471.8 million over five fiscal years.

Section 3 of the bill would authorize VA to furnish veterans with noninstitutional care on a contract basis as an alternative to inpatient hospital and nursing home care. First, it would grant the Administrator authority to furnish hospital based home care to any veteran when such care would obviate the need for inpatient care. Second, it would authorize VA to contract for nonmedical support services to assist veterans to perform necessities of daily living if such services would obviate the need for nursing home care.

VA generally favors noninstitutional alternatives to inpatient care, but we cannot support this proposal. First, it would establish virtually unlimited authority to contract for hospital based home care to any veteran. This open-ended eligibility represents a substantial departure from the longstanding statutorily based policy that, except in limited circumstances and for limited categories of veterans, VA should, as much as possible, furnish hospital and medical services to veterans in facilities under the jurisdiction of the Administrator. That is particularly true in the case of nonservice-connected veterans.

The amendment in this bill would affect far-reaching changes in the scope of hospital based home care by expanding that service substantially to include social support services, such as homemaker or chore services. Similarly, the bill would amend section 620 of title 38 to authorize an even broader array of nonmedical services necessary to help any veteran with a "functional deficiency" perform tasks of daily living.

As we have stated on several occasions in commenting on similar legislative proposals, Congress has provided, in 38 U.S.C. § 4101, that "[the] primary function of the Department of Medicine and Surgery shall be to provide a complete medical and hospital service." That mandate contemplates that VA will provide veterans with all needed medical services, either in VA operated facilities, or in limited circumstances when necessary, in facilities for which the VA contracts. Furnishing homemaker and transportation services, and personal care services such as feeding, washing, and dressing duplicates, in large measure, the assistance for which the basic aid and attendance allowances are currently paid to many veterans. It would also duplicate the availability of such services which are often available from community resources. We do not recommend a departure from the longstanding public policy that the Department of Medicine and Surgery be responsible for medical services for veterans, while other needs be met by other benefits or resources in the community.

We estimate the cost of section 3 would be $572.6 million in the first fiscal year, and $2.86 billion over five fiscal years.

Section 4 of the bill would authorize VA to contract with community residential treatment facilities for the care of veterans who are being furnished VA inpatient care for chronic mental illness. VA has been studying this concept, and, in general, we favor the enactment of a provision which would grant us the contracting flexibility which prevails in our drug and alcohol dependence treatment program under which we have a broad network of contract arrangements for providing halfway house care. This has proven a cost-effective approach, which, in our judgment, could be applied here to diminish substantially lengthy hospital stays for many veterans suffering from chronic mental illness. As such, it would free-up $3.87 million dollars in resources which can be used for other purposes.

We would urge the committee to modify this measure, however, to eliminate elements which are unnecessarily restrictive. Specifically, we recommend that the provision requiring VA to furnish case management services be deleted. We note as well that this measure would require VA to provide a relatively detailed report on the agency's experience with this authority within a year after enactment of this provision. Since the measure requires VA to promulgate regulations prior to contracting for services, it is highly unlikely that we can both implement this program meaningfully and evaluate its effectiveness in this timeframe. We would also recommend that this program be initially authorized for three years and would recommend that an evaluative report be submitted 24 months after enactment.

We estimate that the cost of section 4 would be $.5 million in the first fiscal year, and $2.5 million over five fiscal years.

Section 5 of the bill would amend section 4114(d) of title 38 to permit VA to appoint psychologists who are not licensed in a "State" if they will be working in a research or academic post where they have no patient care responsibility. Currently VA has identical authority to hire physicians, dentists, podiatrists, and optometrists who are not licensed in a State, which has proven helpful.

VA supports the intent of this proposal which appears to be to give VA more flexibility in the hiring of research psychologists. We would recommend one additional flexibility provision be built into the bill. We suggest that authority be granted, to waive the internship requirement for psychologists included in section 4105(a)(8), and that VA be authorized to hire such research psychologists using only term appointments lasting for as long as their research would continue.

We estimate that enactment of section 5 would not impose new costs on the VA.

Section 6 of the bill would amend the statutory provision directing VA to operate 90,000 hospital and nursing home beds to include domiciliary beds within that formulation. With the inclusion of domiciliary beds VA would be above the 90,000 operating bed level. Since the original 90,000 bed minimum was enacted, dramatic changes have taken place in the delivery of medical care. These changes, such as increased outpatient care, including minor surgery on an outpatient basis, have diminished the need for inpatient hospital stays. If the Congress continues to believe that a total minimum number of beds is needed, we do favor the addition of domiciliary beds.

We estimate that enactment of section 6 would not impose new costs on the VA.

Section 7 of the bill would very substantially change the process by which VA funds are awarded to applicants for State home grants. Under existing law, the VA must approve a grant application if that application meets the requirements set by law. The statute leaves us little discretion to rank grant applications according to priorities or "established priority." As a result, the VA approves grants as funds become available in the order in which grant requests are received.

Under this proposal, VA would be required to grant awards on the basis of pre-established criteria for prioritizing projects. The bill calls for VA to develop those criteria and to make its relative priority determinations from among approved applications. Monies available for these grants would then be allocated among those approved projects in accordance with the priorities that had been established. Enactment of this proposal would revise a longstanding process, and may act to discourage some States from applying for State home construction grants while encouraging others to apply. As drafted, this measure appears to require a State to incur all the expense associated with submitting a formal application (up to 10% of the project's cost) and await project approval, without any assurance that that project, even if approved, will be funded. Because of this uncertainty, we anticipate that some States may be less likely to plan and request funding for State home projects if this proposal were enacted.

We recognize that there is criticism that the existing process does not give sufficient weight to relative need among State home projects. Allowing VA to target grant money to areas of greatest need could encourage some non-participating States to submit applications. An effective targeting provision could be a useful tool in assisting the VA to better manage its nursing home provider mix. Although we believe it is premature to make any decision to change the current approval process at this time, there may be options similar to the concept contained in this bill, which would provide additional flexibility. However, all of the ramifications of these options should be considered before a change is made to the existing procedure.

Section 7 would also limit the existing scope of grant-eligible projects under the State home program. As proposed, construction grants would no longer be available to assist States to expand existing buildings for the provision of hospital care in

State homes. In view of the pressing need for long-term care facilities, we have no objection to this provision.

We estimate that enactment of section 7 would not impose significant costs.

Section 8 of the bill would require that the Veterans Administration establish a registry of veterans exposed to ionizing radiation who have requested VA care for disabilities which may be related to such exposure, who have claimed VA disability compensation for disabilities allegedly resulting from radiation exposure, or who died leaving survivors who have claimed VA death benefits based on the veteran's exposure to radiation. The registry would be required to include, for each veteran, detailed medical data identified in the bill, data on the veteran's benefits claim, and an estimate of the radiation dose the veteran received. Finally, the VA would be required to analyze the registry data and report to the Congress regarding the analysis, and the Advisory Committee on Environmental Hazards would be required to review and comment on the analysis.

We support the concept embodied in this proposal for a registry, which is to assure access to information regarding veterans exposed to ionizing radiation. We cannot support this specific proposal, however. Most of the information which the proposed registry would include is now available to the VA, but it is often not easily accessible. For example, VA has established a method for identifying veterans who apply to the VA for inpatient care for disabilities possibly related to exposure to radiation. This system permits us to retrieve from the VA's automated Patient Treatment File summary data concerning these veterans and the location of their permanent medical records. Similarly, the Department of Veterans Benefits established a Special Issue Rating System (SIRS) which collects data on claims based on exposure to ionizing radiation. This system includes service dates, the disabilities claimed, the VA's decision on each disability with respect to service-connection, and the date of the latest rating decision.

We recommend that as an alternative to the registry proposed in this bill, the VA develop a more limited registry which would, in effect, permit VA greater access to the information which is already available. The registry would also combine information from the Defense Nuclear Agency with information in existing VA files. Development of this more limited registry would be more cost-effective than the proposal made in this bill, and would provide the information that the VA, the Congress, and the affected veteran population need.

We also cannot support the provision in this bill which would require VA to analyze the data in the proposed registry and report to the Congress regarding the analysis. This provision could be construed as requiring that VA perform a morbidity study of veterans included in the ionizing radiation registry. It has already been determined by the Office of Technology Assessment and the Committee on Interagency Radiation Research and Policy Coordination that such a study, in any form, would not be feasible.

We estimate that the costs of section 8 of the bill would be $.3 million in the first fiscal year and $.7 million over five fiscal years. We estimate that the total costs of S. 2445 would be approximately $667.7 million in Fiscal Year 1987, and $3.34 billion over the first five fiscal years.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

THOMAS K. TURNAGE
Administrator

Office of the
Administrator
of Veterans Affairs

[illegible]

Veterans
Administration

JUL 1 4 1986

Honorable Frank H. Murkowski
Chairman, Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to provide the views of the Veterans Administration (VA) on S. 2304, 99th Congress, a bill "To amend title 38, United States Code, to extend the period of time during which veterans readjustment appointments may be made." The Veterans Administration strongly supports this proposal.

S. 2304 would extend for an additional three years, through September 30, 1989, the Veterans Readjustment Appointments (VRA) authority under section 2014 of title 38, United States Code. If not extended, this authority will expire at the end of this fiscal year. This authority allows Federal agencies to appoint noncompetitively qualified disabled and Vietnam-era veterans to civil service positions at a maximum GS-9 grade level. These appointments can then be converted to career or career-conditional appointments after two years of satisfactory employment and training.

VA is especially proud to be a leader in employing Vietnam-era veterans through the VRA authority. Since 1970, we have appointed more than 85,000 veterans under this authority in a wide variety of occupations.

The VRA authority has been very successful in meeting the goals of assisting disadvantaged and disabled veterans in gaining skills, training, and development to allow them to compete in the job market, secure employment, and enter the mainstream of American society. This authority has, in turn, been very beneficial to VA in obtaining necessary high-quality staff while providing many disabled and Vietnam-era veterans with an opportunity which has led to successful careers. In effect, this authority has provided VA and other agencies an expedited and simplified method for staffing vacancies, which saves recruiting time and maintains a high quality of job candidates. The three-year VRA authority extension, as proposed by S. 2304, would allow us to employ additional qualified disabled and Vietnam-era veterans.

2.

Honorable Frank H. Murkowski

Extending the VRA authority is essentially a cost-free method of helping reduce the unemployment rate of veterans. We do not anticipate that an extension of this authority would have any budgetary impact on VA. For these reasons, we urge that S. 2304 be enacted.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

THOMAS K. TURNAGE
Administrator

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUL 23 1986

Honorable Frank H. Murkowski
Chairman, Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

We are pleased to respond to your request for a report on S. 2168, 99th Congress, a bill designed "to improve veterans' benefits for former POWs."

The bill, if enacted, would amend section 312(b) of title 38, United States Code, by adding two medical conditions to the list of those for which service connection is presumed if they are manifested to a compensable degree following service by veterans who were prisoners of war for at least thirty days. The additional conditions, as presented in the bill, are "organic residuals of frostbite" and "arthritis resulting from trauma incurred while interned as a prisoner of war."

For the reasons set forth below, we do not oppose enactment of S. 2168, although we consider it to be largely unnecessary.

The incorporation into section 312(b) of the provisions in question would not have a significant impact on current VA adjudicative practices. Direct service connection is routinely granted for frostbite residuals and traumatic arthritis, where they are shown to be related to service. If a prisoner of war developed either condition in conjunction with internment, the condition ordinarily would have manifested itself and required treatment upon repatriation or shortly thereafter. In the great majority of ex-POW cases, sufficient medical evidence would exist to establish incurrence in service without any need for a statutory presumption. Additionally, VA policy is to treat claims of former POWs in a liberal manner, giving special consideration to the hardships and privations they have endured and, of course, resolving any reasonable doubt in their favor.

2.

Honorable Frank H. Murkowski

On the other hand, we are mindful that some cases do not fit the norm. In particular, we are aware of the realities of the repatriation process and the initial tendency of many ex-POWs to put aside their traumatic experiences. This, in turn, can result in a lack of sufficient evidence to substantiate a claim filed some years later. We believe, therefore, that this legislation could serve as a "safety net" for some ex-POWs, facilitating grants of service connection well after service in some deserving cases.

Be that as it may, the provision in S. 2168 regarding traumatic arthritis is of concern to us from a technical standpoint. Strictly interpreted, it requires that the evidence show the arthritis resulted from trauma incurred during POW internment. The provision thus seems to create a redundancy, because such a requirement would satisfy already-existing law and establish service connection with no need to apply a presumption. In fact, the bill as drafted would preclude application of a presumption for traumatic arthritis.

We estimate that, if section 312(b) were amended in the manner presently proposed, it would entail insignificant costs to the Government.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

THOMAS E. TURNAGE
Administrator

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

AUG 15 1986

Honorable Frank H. Murkowski
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in reply to your request for our views on S. 2422, as introduced, and for our estimate of costs of the bill if enacted.

Our views on all of the provisions of this bill were detailed in testimony delivered by the Chief Medical and Benefits Directors before your Committee on May 20, 1986. (We refer you to pp. 26-37 of their prepared remarks, copy enclosed.) Brief restatements of our positions, and cost estimates, follow.

Title I (Compensation Rate Increases): The Veterans Administration (VA) strongly supports a cost-of-living increase for disability compensation, DIC, and associated benefits enumerated in title I of S. 2422 to help offset the erosion of purchasing power resulting from increases in consumer prices. VA's position is that the next COLA in these rates should occur at the same time, and be of the same percentage, as the next COLA in Social Security benefits. Cost estimate for Title I of S. 2422, which would authorize a 3.4% COLA effective December 1, 1986:

Fiscal Year	Cost ($ millions)
1987	289.0
1988	345.6
1989	344.8
1990	343.8
1991	342.7

Title II (Improvement of Home Loan Guaranty Program: The VA has no objections to the basic purpose of Title II, but we do have some technical suggestions which are outlined on page 33 of the enclosed testimony. Estimated costs: insignificant.

Title III (Improvement in Other Veterans' Programs):

Sec. 301: VA favors this provision to enable DoD to recover, by offset, certain retirement program and survivor plan debts from VA disability compensation and pension recipients. Estimated costs: insignificant.

Sec. 302: This is a VA proposal to authorize the Agency to require that fiduciaries for VA beneficiaries furnish information about the beneficiaries' non-VA income and assets. Estimated costs: insignificant.

Sec. 303: VA opposes this provision, which would impose mandatory parking fees on non-patients at certain VA medical centers, because we object to the bill's creation of a parking revolving fund, an unnecessary administrative burden. Five-year estimated costs:

Fiscal Year	Cost ($ millions)
1987	20.0
1988	22.1
1989	7.7
1990	7.0
1991	6.4

Sec. 304: VA requested enactment of this provision, which would waive the congressional waiting period, required by 38 U.S.C. § 210(b)(2), for purposes of a minor reorganization within VA Central Office. Specifically, the proposal involves our planned transfer of the Presidential Memorial Certificates Program and the Audio Visuals Service to the Office of the Associate Deputy Administrator for Public and Consumer Affairs. Estimated costs: None.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

THOMAS K. TURNAGE
Administrator

Enclosure

Changes in Existing Law Made by S. 2422 as Reported

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * * * *

PART I—GENERAL PROVISIONS

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CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

* * * * * * *

Subchapter II—Administrator of Veterans' Affairs

§ 210. Appointment and general authority of Administrator; Deputy Administrator

(a) * * *

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(c)(1) * * *

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(3)[(A)] If the Administrator determines that any veteran, widow, child of a veteran, or other person, has suffered loss as a consequence of reliance upon a determination by the Veterans' Administration of eligibility or entitlement to benefits, without knowledge that it was erroneously made, he is authorized to provide such relief on account of such error as he determines equitable, including the payment of moneys to any person whom he determines equitably entitled thereto.

[(B) The Administrator shall submit an annual report to the Congress on January 1, 1973, and each succeeding year containing a brief summary, including a statement as to the disposition of each case recommended to him for equitable relief under this paragraph.]

* * * * * * *

§ 218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration

(a)(1) * * *

* * * * * * *

(b)(1) Veterans' Administration employees who are Veterans' Administration police officers shall [enforce Federal laws and the rules prescribed under subsection (a)(2)(A) of this section on Veterans' Administration property. Subject to regulations prescribed under paragraph (2) of this subsection, a Veterans' Administration police officer may make arrests on Veterans' Administration property for a violation of any Federal law or any such rule.] *enforce, with respect to acts occurring on Veterans' Administration property—*

(A) Federal laws;

(B) the rules prescribed under subsection (a)(2)(A) of this section; and

(C) traffic and motor vehicle laws of a State or local government within the jurisdiction of which such Veterans' Administration property is located, pursuant to an express grant of authority under State or local law to enforce such laws, by issuing citations for violations thereof.

Subject to regulations prescribed under paragraph (2) of this subsection, a Veterans' Administration police officer may make an arrest on Veterans' Administration property for a violation of any Federal law or any such rule.

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PART II—GENERAL BENEFITS

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CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * * * *

Subchapter II—Wartime Disability Compensation

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§ 312. Presumptions relating to certain diseases and disabilities

(a) * * *

* * * * * * *

(b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

(1) avitaminosis,
(2) beriberi (including beriberi heart disease),
(3) chronic dysentery,
(4) helminthiasis,
(5) malnutrition (including optic atrophy associated with malnutrition),
(6) pellagra,
(7) any other nutritional deficiency,
(8) psychosis,
(9) any of the anxiety states, [or]
(10) dysthymic disorder (or depressive neurosis), *or*
(11) organic residuals of frostbite, if the Administrator determines that the veteran was interned in climatic conditions consistent with the occurrence of frostbite,

which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

* * * * * * *

CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT

610. Eligibility for hospital, nursing home, and domiciliary care.
611. Care during examinations and in emergencies.
612. Eligibility for medical treatment.
612A. Eligibility for readjustment counseling and related mental health services.
612B. Counseling for former prisoners of war.
613. Medical care for survivors and dependents of certain veterans.
614. Fitting and training in use of prosthetic appliances; seeing-eye dogs.
615. Tobacco for hospitalized veterans.
616. Hospital care by other agencies of the United States.
617. Invalid lifts and other devices.
618. Therapeutic and rehabilitative activities.
619. Repair or replacement of certain prosthetic and other appliances.
620. Transfers for nursing home care; adult day health care.
620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities.
620B. Community-based psychiatric residential treatment for chronically mentally ill veterans.
620C. Respite care; pilot program.
620D. Noninstitutional alternatives to institutional care; pilot program.

* * * * * * *

Subchapter I—General

§ 601. Definitions

For the purposes of this chapter—

* * * * * * *

(6) The term "medical services" includes, in addition to medical examination, treatment, and rehabilitative services—

(A)(i) surgical services, *(ii) (in the case of a veteran who applies for such services prior to October 1, 1989) services to achieve pregnancy in a veteran or a veteran's spouse where such services are necessary because of a service-connected disability which causes the veteran's inability to procreate, (iii)* dental services and appliances as described in sections 610 and 612 of this title, *(iv)* optometric and podiatric [services] *services, (v)* (in the case of a person otherwise receiving care or services under this [chapter),] *chapter)* preventive health-care services as defined in section 662 of this title, [and] *(vi)* (except under the conditions described in section 612(f)(1)(A)(i) of this [title),] *title)* wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary, and [(ii)] *(vii)* travel and incidental expenses pursuant to the provisions of section 111 of this title; and

(B)*(i)* such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment—

[(i)] *(I)* of the service-connected disability of a veteran pursuant to section 612(a) of this title, and

[(ii)] *(II)* in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)(1)(A)(ii) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital,

for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, travel and incidental expenses of such family member or individual in the case of a veteran who is receiving care for a service-connected disability, or in the case of *a* dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this [title). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.] *title); and*

(ii) in the case of an individual who was a recipient of services under subclause (i) of this clause at the time of (I) the unexpected death of the veteran, or (II) the death of the veteran while the veteran was participating in a hospice program conducted by the Administrator, such counseling services, for a period of not to exceed 6 months, as the Administrator determines to be reasonable and necessary to assist such individual with the emotional and psychological stress accompanying the veteran's death.

For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.

* * * * * * *

(10) The term "home health services", in the case of services furnished to a veteran in other than a Veterans' Administration facility or the veteran's home, includes services furnished to a veteran in any setting in which the veteran is residing at the time such services are furnished but does not include any structural improvements or alterations.

* * * * * * *

Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

§ 610. Eligibility for hospital, nursing home, and domiciliary care

(a)(1) * * *

* * * * * * *

(b) The Administrator, [within the limits of] *through* Veterans' Administration facilities, may furnish *such* domiciliary care [to—] *as the Administrator determines is needed by a veteran for the purpose of receiving treatment or rehabilitation if the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that the veteran—*

[(1) a veteran who was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or a person who is in receipt of disability compensation, when such person is suffering from a permanent disability or tuberculosis or neuropsychiatric ailment and is incapacitated from earning a living and has no adequate means of support; and

[(2) a veteran who is in need of domiciliary care if such veteran is unable to defray the expenses of necessary domiciliary care.]

(1) has a service-connected disability, or

(2) is incapacitated from earning a living and has no adequate means of support.

* * * * * * *

§ 612. Eligibility for medical treatment

(a)(1) * * *

* * * * * * *

(b)(1) * * *

* * * * * * *

(4) [In] *(A) Except as provided in subparagraph (B) of this paragraph, in* any year in which the President's Budget for the fiscal year beginning October 1 of such year includes an amount for expenditures for contract dental care under the provisions of subsections (a) and (f) of this section and section 603 of this title during such fiscal year in excess of the level of expenditures made for such purpose during fiscal year 1978, the Administrator shall, not later than February 15 of such year, submit a report to the appropriate committees of the Congress justifying the requested level of expenditures for contract dental care and explaining why the application of the criteria prescribed in section 603 of this title for contracting with private facilities and in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans will not preclude the need for expenditures for contract dental care in excess of the fiscal year 1978 level of expenditures for such purpose. In any case in which the amount included in the President's Budget for any fiscal year for expenditures for contract dental care under such provisions is not in excess of the level of expenditures made for such purpose during fiscal year 1978

and the Administrator determines after the date of submission of such budget and before the end of such fiscal year that the level of expenditures for such contract dental care during such fiscal year will exceed the fiscal year 1978 level of expenditures, the Administrator shall submit a report to the appropriate committees of the Congress containing both a justification (with respect to the projected level of expenditures for such fiscal year) and an explanation as required in the preceding sentence in the case of a report submitted pursuant to such sentence. Any report submitted pursuant to this paragraph shall include a comment by the Administrator on the effect of the application of the criteria prescribed in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans.

(B) No report under subparagraph (A) of this paragraph with respect to a fiscal year is required if, in the documents submitted by the Administrator to the Congress in justification for the amounts included for Veterans' Administration programs in the President's Budget, the Administrator specifies with respect to contract dental care described in such subparagraph—

(i) the actual level of expenditures for such care in the fiscal year preceding the fiscal year in which such Budget is submitted;

(ii) a current estimate of the level of expenditures for such care in the fiscal year in which such Budget is submitted; and

(iii) the amount included in such Budget for such care.

* * * * * * *

§ 620B. Community-based psychiatric residential treatment for chronically mentally ill veterans

(a) For the purposes of this section—

(1) The term "case management" includes the coordination and facilitation of all services furnished to a veteran by the Veterans' Administration, either directly or through a contract, including, but not limited to, screening, assessment of needs, planning, referral (including referral for services to be furnished by either the Veterans' Administration or another entity), monitoring, reassessment, and followup.

(2) The term "contract facility" means any facility which has been awarded a contract under subsection (b)(1) of this section.

(3) The term "eligible veteran" means a veteran who, at the time of referral to a contract facility—

(i) is being furnished hospital, domiciliary, or nursing home care by the Administrator for a chronic mental illness disability, or

(ii) is a veteran described in section 612(a)(1)(B) of this title who has a chronic mental illness disability.

(b)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from chronic mental illness disabilities.

(2) Before furnishing such care and services to any veteran through a contract facility, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

(c) In the case of each eligible veteran provided care and services under this section, the Administrator shall designate a Veterans' Administration health-care employee to provide case management services.

(d) In furnishing care and services under this section, the Administrator shall accord priority for such care and service in the following order:

(1) To any veteran for a service-connected chronic mental illness disability.

(2) To any veteran with a disability rated as service-connected.

(3) To any veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

(e) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a contract facility under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

(f) Not later than 3 years after the date of the enactment of the Omnibus Veterans' Benefits Improvement and Health Care Authorization Act of 1986, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience under this section. The report shall include the Administrator's evaluation and findings regarding—

(1) the quality of care furnished to participating veterans through contract facilities;

(2) any health advantages that may result from furnishing such care and services to such veterans in such contract facilities rather than in inpatient facilities over which the Administrator has direct jurisdiction;

(3) the effectiveness of the use of contract facilities under this section in enabling the participating veterans to live outside of Veterans' Administration inpatient facilities and to achieve independence in living and functioning in their communities;

(4) the cost-effectiveness of furnishing such care through contract facilities under this section, including the effect on the average daily census in Veterans' Administration hospital, nurs-

ing home, and domiciliary facilities participating in the program (taking into account whether the beds previously occupied by the participating veterans were subsequently occupied by other eligible veterans or remained unoccupied) and the effect on the numbers of Veterans' Administration staff employed at such facilities; and

(5) any plans for administrative action, and any recommendations for legislation, that the Administration considers appropriate to include in such report.

§ 620C. Respite care; pilot program

(a) During the period beginning on October 1, 1986, and ending on September 30, 1990, the Administrator may conduct a pilot program to furnish respite care services, and to evaluate the furnishing of such services, to any veteran who has a service-connected disability which is compensable in degree and who is receiving services under this chapter.

(b) For the purposes of this section, the term "respite care" means hospital or nursing home care which (1) is of limited duration, (2) is furnished in a Veterans' Administration facility on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home, (3) is furnished for the purpose of helping the veteran to continue residing primarily at home, and (4) does not (as determined by the head of the facility furnishing the care) adversely affect the range of services, the quality of care, or the established priorities for care furnished to other veterans seeking care at such facility.

§ 620D. Noninstitutional alternatives to institutional care; pilot program

(a)(1) The Administrator, during the period beginning January 1, 1987, and ending December 31, 1990, and subject to subsection (c) of this section, shall conduct a pilot program under which veterans eligible under this chapter for and otherwise in need of hospital, nursing home, or domiciliary care will be furnished medical, rehabilitative, and health-related services in noninstitutional settings at not less than five nor more than ten demonstration project sites.

(2) In selecting veterans for participation in the program, the Administrator shall accord priority to veterans who have service-connected disabilities, to veterans who are 65 years of age or older, to veterans who are totally and permanently disabled, to veterans who, by reason of blindness in both eyes, have only light perception or are in need of regular aid and attendance, and to veterans who are suffering from Alzheimer's disease or other forms of dementia.

(b)(1) In the conduct of the program, the Administrator shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) in the case of each veteran furnished services under the program, appoint a Veterans' Administration health-care employee to furnish case management services (as defined in section 620B(a)(1) of this title).

(2) In order to evaluate the cost-effectiveness of utilizing certain health services of agencies other than the Veterans' Administration in cases in which no Veterans' Administration facility in the vicini-

ty of a demonstration project provides such services, the Administrator, in not more than two of the demonstration projects, may utilize appropriate health services of appropriate public and private agencies that furnish such services.

(3) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility furnishing services to veterans under paragraph (1)(A) of this subsection. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the facility concerned. The Administrator may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

(c) The total cost of conducting the pilot program under this section shall not exceed 60 percent of the cost that would have been incurred by the Veterans' Administration during the period of the pilot program if the veterans being furnished services under the pilot program had been furnished, instead, nursing home care under section 610 of this title. In any fiscal year, the cost of carrying out the pilot program shall not exceed 65 percent of the cost that would have been so incurred for such year under such section 610.

(d) Not later than April 1, 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report setting forth the Administrator's evaluation, findings, and conclusions regarding the pilot program, and its results for the participating veterans, during its first 36 months. The report shall include a description of the conduct of the program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation that the Administrator considers appropriate to include in the report.

* * * * * * *

Subchapter III—Miscellaneous Provisions Relating to Hospital and Nursing Home Care and Medical Treatment of Veterans

* * * * * * *

§ 622. Determination of inability to defray necessary expenses; income thresholds

(a)(1) * * *

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(g) For the purposes of [sections 610(b)(2) and] *section* 624(c) of this title, the fact that a veteran is—

(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) a veteran with a service-connected disability; or

(3) in receipt of pension under any law administered by the Veterans' Administration,

shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.

* * * * * * *

Subchapter IV—Hospital Care and Medical Treatment for Veterans in the Republic of the Philippines

* * * * * * *

§ 632. Contracts and grants to provide for the care and treatment of United States veterans by the Veterans Memorial Medical Center

(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into contracts with the Veterans Memorial Medical Center, with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on October 1, 1981, and ending on September 30, **[**1986,**]** *1989,* under which the United States—

(1) will provide for payments for hospital care and medical services (including nursing home care) in the Veterans Memorial Medical Center, as authorized by section 624 of this title and on the terms and conditions set forth in such section, to eligible United States veterans at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

(2) may provide that payments for such hospital care and medical services provided to eligible United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Medical Center at valuations therefor as determined by the Administrator, who may furnish such medicines, medical supplies, and equipment through the revolving supply fund pursuant to section 5021 of this title.

(b)(1) To further assure the effective care and treatment of United States veterans in the Veterans Memorial Medical Center, there is authorized to be appropriated for each fiscal year during the period beginning on October 1, 1981, and ending on September 30, **[**1986,**]** *1989,* the sum of $500,000 to be used by the Administrator for making grants to the Veterans Memorial Medical Center for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such center.

* * * * * * *

(4)(A) Grants under this subsection for any fiscal year shall be made on a biannual basis, with no more than one-half of the amount of the grant being paid during the first half of such fiscal

year and with no more than one-half of such amount being paid during the second half of such fiscal year.

(B) No payment of such a grant may be made unless the Administrator has first submitted to the appropriate committees of the Congress a report setting forth the amount of the preceding biannual payment and a detailed accounting showing the uses made of such payment by the Veterans Memorial Medical Center.

* * * * * * *

Subchapter V—Payments to State Homes

§ 641. Criteria for payment

(a) * * *

* * * * * * *

(d) Payments made to States pursuant to this section—

(1) shall not be considered to be a third-party liability for any purpose under section 1902(a)(25) of title XIX of the Social Security Act (42 U.S.C. 1396a (25)); and

(2) shall, for purposes of determining under title XIX of the Social Security Act the reasonable costs of services provided by a State home, not be deducted directly or indirectly from the operating or other costs of such State home.

* * * * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

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Subchapter IV—Time Limitation for Use of Eligibility and Entitlement; General and Administrative Provisions

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§ 1433. Bar to duplication of educational assistance benefits

(a)(1) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, **[**34,**]** *32,* or 35 of this **[**title or**]** *title,* under chapter 106 or 107 of title **[**10**]** *10, or under the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note)* may not receive assistance under **[**both**]** *two or more of such* programs concurrently but shall elect (in such form and manner as the Administrator may prescribe) under which program to receive educational assistance.

* * * * * * *

CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

* * * * * * *

§ 1501. Definitions

For the purposes of this chapter—

* * * * * * *

(6) The term "rehabilitation program" means (A) a vocational rehabilitation program, or (B) a program of independent living services and assistance for a veteran for whom a vocational goal has been determined not to be *currently* reasonably feasible.

* * * * * * *

(9) The term "vocational rehabilitation program" includes—

(A) the services provided for in this chapter that are needed for the accomplishment of the purposes of this chapter, including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Administrator to be needed—

(i) in the case of a veteran for whom the achievement of a vocational goal has not been determined not to be *currently* reasonably feasible, (I) to determine whether a vocational goal is reasonably feasible, (II) to improve such veteran's potential to participate in a program of services designed to achieve a vocational goal, and (III) to enable such veteran to achieve maximum independence in daily living, and

(ii) in the case of a veteran for whom the achievement of a vocational goal is determined to be reasonably feasible, to enable such veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment, and

(B) the assistance authorized by this chapter for a veteran receiving any of the services described in clause (A) of this paragraph.

* * * * * * *

§ 1503. Periods of eligibility

(a) * * *

* * * * * * *

(d) In any case in which the Administrator has determined that a veteran's disability or disabilities are so severe that the achievement of a vocational goal *currently* is not reasonably feasible, such veteran may be afforded a program of independent living services and assistance under this chapter after the expiration of the period of eligibility otherwise applicable to such veteran if the Administrator also determines that an extension of the period of eligibility of such veteran is necessary for such veteran to achieve maximum independence in daily living.

* * * * * * *

§ 1505. Duration of rehabilitation programs

(a) In any case in which the Administrator is unable to determine whether it *currently* is reasonably feasible for a veteran to achieve a vocational goal, the period of extended evaluation under section 1506(c) of this title may not exceed twelve months, except that such period may be extended for additional periods of up to six months each if the Administrator determines before granting any such extension that it is reasonably likely that, during the period of any such extension, a determination can be made whether the achievement of a vocational goal is reasonably feasible in the case of such veteran.

(b) Except as provided in subsection (c) of this section, the period of a vocational rehabilitation program for a veteran under this chapter following a determination of the *current* reasonable feasibility of achieving a vocational goal may not exceed forty-eight months, except that the counseling and placement and postplacement services described in section 1504(a) (2) and (5) of this title may be provided for an additional period not to exceed eighteen months in any case in which the Administrator determines the provision of such counseling and services to be necessary to accomplish the purposes of a rehabilitation program in the individual case.

* * * * * * *

(d) Unless the Administrator determines that a longer period is necessary and likely to result in a substantial increase in a veteran's level of independence in daily living, the period of a program of independent living services and assistance for a veteran under this chapter (following a determination by the Administrator that such veteran's disability or disabilities are so severe that the achievement of a vocational goal *currently* is not reasonably feasible) may not exceed twenty-four months.

§ 1506. Initial and extended evaluations; determinations regarding serious employment handicap

(a) The Administrator shall provide any veteran who has a service-connected disability described in section 1502(1) (A) or (B) of this title and who applies for benefits under this chapter with an initial evaluation consisting of such services described in section 1504(a)(1) of this title as are necessary (1) to determine whether such veteran is entitled to and eligible for benefits under this chapter, and (2) in the case of a veteran who is determined to be entitled to and eligible for such benefits, to determine—

(A) whether such veteran has a serious employment handicap, and

(B) whether the achievement of a vocational goal *currently* is reasonably feasible for such veteran if it is reasonably feasible to make such determination without extended evaluation.

(b) In any case in which the Administrator has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal *currently* is reasonably feasible for such veteran, such veteran shall be provided counseling in accordance with an individualized written plan of vocational rehabilitation developed under section 1507(a) of this title.

(c) In any case in which the Administrator has determined that a veteran has a serious employment handicap but the Administrator is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal *currently* is reasonably feasible, such veteran shall be provided with extended evaluation consisting of the services described in section 1504(a)(1) of this title, such services under this chapter as the Administrator determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 1508 of this title.

(d) The Administrator shall in all cases determine as expeditiously as possible whether the achievement of a vocational goal by a veteran *currently* is reasonably feasible. In the case of a veteran provided extended evaluation under subsection (c) of this section (including any periods of extensions under section 1505(a) of this title), the Administrator shall make such determination not later than the end of such extended evaluation or period of extension, as the case may be. In determining whether the achievement of a vocational goal *currently* is reasonably feasible, the Administrator shall resolve any reasonable doubt in favor of determining that such achievement *currently* is reasonably feasible.

* * * * * * *

§ 1509. Entitlement to independent living services and assistance

In any case in which the Administrator has determined under section 1506(d) of this title that the achievement of a vocational goal by a veteran *currently* is not reasonably feasible, such veteran shall be entitled, in accordance with the provisions of section 1520 of this title, to a program of independent living services and assistance designed to enable such veteran to achieve maximum independence in daily living.

* * * * * * *

§ 1520. Pilot program of independent living services and assistance

(a)(1) During fiscal years 1982 through [1985,] *1989,* the Administrator may, under contracts with public or nonprofit private agencies or organizations, or through facilities of the Department of Medicine and Surgery, which possess a demonstrated capability to conduct programs of independent living services for severely handicapped persons, provide, under regulations which the Administrator shall prescribe, programs of independent living services and assistance under this chapter, in various geographic regions of the United States, to veterans described in paragraph (2) of this subsection.

(2) A program of independent living services and assistance may be made available under this section only to a veteran who has a service-connected disability described in section 1502(1)(A) of this title and with respect to whom it is determined under section 1506(d) of this title that the achievement of a vocational goal *cur-*

rently is not reasonably feasible and who is selected pursuant to criteria provided for in regulations prescribed under paragraph (1) of this subsection.

* * * * * * *

(5) Any contract for services initiated with respect to any veteran under this section before the end of fiscal year [1985] *1989* may be continued in effect after the end of such year for the purposes of providing services and assistance to such veteran in accordance with the provisions of this chapter.

(6) Programs of independent living services and assistance shall be initiated for no more than five hundred veterans in each of the fiscal years 1982 through [1985,] *1989,* and the first priority in the provision of such programs shall be afforded to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of a service-connected disability.

[(b) Not later than September 30, 1984, the Administrator shall submit to the Congress a report on the programs of independent living services and assistance provided for in subsection (a) of this section. Such report shall include—

> [(1) the results of a study which the Administrator shall conduct of the accomplishments and cost-effectiveness of such programs, including the extent to which (A) such programs have met needs for comprehensive independent living services that would not otherwise have been met, (B) severely disabled veterans have achieved and maintained greater independence in daily living as a result of participation in the programs, and (C) costs of care in hospital, nursing home, and domiciliary facilities have been and may be avoided as the result of such programs; and
>
> [(2) the Administrator's recommendations for any legislative changes with respect to the provision of independent living services and assistance to veterans for whom the achievement of a vocational goal is not feasible.]

(b) Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives statistical data regarding veterans' participation in the pilot program conducted under subsection (a) of this section during fiscal years 1987 and 1988 and any recommendations of the Administrator for administrative or legislative action or both regarding the program.

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CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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Subchapter II—Miscellaneous Provisions

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§ 1792. Advisory committee

(a) There shall be an advisory committee formed by the Administrator which shall be composed of persons who are eminent in their respective fields of education, labor, and management and of representatives of institutions and establishments furnishing education to eligible veterans or persons enrolled under chapter 32, 34, or 35 of this title. The committee shall also include veterans representative of [World War II, the Korean conflict era,] the post-Korean conflict era, the Vietnam era, and the post-Vietnam era. The Assistant Secretary of Education for Postsecondary Education (or such other comparable official of the Department of Education as the Secretary of Education may designate) and the Assistant Secretary of Labor for Veterans' Employment shall be ex officio members of the advisory committee.

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CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

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Subchapter II—Loans

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§ 1816. Procedure on default

(a)(1) * * *

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(c)(1) * * *

* * * * * * *

(5) [In] *Except as provided in paragraph (10) of this subsection, in* a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at a liquidation sale for an amount that does not exceed the lesser of the net value of the property or the total indebtedness under the loan—

(A) the holder shall have the option to convey the property to the United States in return for payment by the Administrator of an amount equal to the lesser of such net value or total indebtedness; and

(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount of such total indebtedness minus the net value of the property.

* * * * * * *

(7) [In] *Except as provided in paragraph (10) of this subsection, in* a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at the liquidation sale for an amount that exceeds the lesser of the total indebtedness under the loan or the net value and that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale—

(A) the Administrator may accept conveyance of the property to the United States for a price not exceeding the lesser of the amount for which the holder acquired the property or the total indebtedness under the loan; and

(B) the liability of the United States under the loan guaranty under this chapter is as provided in paragraph (6)(B) of this subsection.

* * * * * * *

(10)(A) The holder of a defaulted loan shall not have the option of conveying the property securing the loan to the United States under paragraph (5) of this subsection and the Administrator may not accept conveyance of such property under paragraph (7) of this subsection unless the Administrator determines, on the basis of the considerations specified in subparagraph (B) of this paragraph, that the Administrator is likely to be able, within 1 year after the date of the liquidation sale of the property, to sell the property for a price which would make it economically advantageous to the United States for the Administrator to acquire and dispose of the property.

(B) In making a determination with respect to a particular property for the purpose of subparagraph (A) of this paragraph, the Administrator shall consider—

(i) the size of the inventory of the properties held by the Veterans' Administration (after acquisition under this section) which are located in the same general real estate market area as such property;

(ii) the current and projected conditions of the real estate market in such area; and

(iii) the current and projected general economic conditions in such area.

* * * * * * *

CHAPTER 42—EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM ERA VETERANS

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§ 2014. Employment within the Federal Government

(a)(1) * * *

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(b)(1) * * *

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(2) No veterans readjustment appointment may be made under authority of this subsection after September 30, [1986.] *1988.*

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

* * * * * * *

§ 3101. Nonassignability and exempt status of benefits

(a) * * *

* * * * * * *

(c)(1) Notwithstanding any other provision of this section, the Administrator may, after receiving a request under paragraph (2) of this subsection relating to a veteran, collect by offset of any compensation or pension payable to the veteran under laws administered by the Veterans' Administration the uncollected portion of (A) the amount of any overpayments of retired or retainer pay (for service in a uniformed service named in section 101(3) of title 37) made to the veteran, and (B) the amount of any indebtedness associated with the veteran's participation in a plan prescribed in subchapter I or II of chapter 73 of title 10.

(2) If the Secretary concerned (as defined in section 101(5) of title 37) has tried under section 3711(a) of title 31 to collect an amount described in paragraph (1) of this subsection in the case of any veteran, has been unable to collect such amount, and has determined that the uncollected portion of such amount is not collectible from amounts payable by the Secretary to the veteran or that the veteran is not receiving any payment from the Secretary, the Secretary may request the Administrator to make collections in the case of such veteran as authorized in paragraph (1) of this subsection.

(3)(A) A collection authorized by paragraph (1) of this subsection shall be conducted in accordance with the procedures prescribed in section 3716 of title 31 for administrative offset collections made after attempts to collect claims under section 3711(a) of such title.

(B) For the purpose of subparagraph (A) of this paragraph, as used in the second sentence of section 3716(a) of title 31—

(i) the term "records of the agency" shall be considered to refer to the records of the department of the Secretary concerned; and

(ii) the term "agency" in clauses (3) and (4) shall be considered to refer to such department.

(4) Funds collected under this subsection shall be credited to the Department of Defense military retirement fund.

[(c)**]** *(d)* Notwithstanding subsection (a) of this section, payments of benefits under laws administered by the Veterans' Administration shall not be exempt from levy under subchapter D of chapter 64 of the Internal Revenue Code of 1954 (26 U.S.C. 6331 et seq.).

[(d)**]** *(e)* In the case of a person who—

(1) has been determined to be eligible to receive pension or compensation under laws administered by the Veterans' Administration but for the receipt by such person of pay pursuant to any provision of law providing retired or retirement pay to members or former members of the Armed Forces or commissioned officers of the National Oceanic and Atmospheric Administration or of the Public Health Service; and

(2) files a waiver of such pay in accordance with section 3105 of this title in the amount of such pension or compensation before the end of the one-year period beginning on the date such person is notified by the Veterans' Administration of such person's eligibility for such pension or compensation.

the retired or retirement pay of such person shall be exempt from taxation, as provided in subsection (a) of this section, in an amount equal to the amount of pension or compensation which would have been paid to such person but for the receipt by such person of such pay.

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CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

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§ 3202. Payments to and supervision of fiduciaries

(a)(1) * * *

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(b) Whenever it appears that any guardian, curator, conservator, or other person, in the opinion of the Administrator, is not properly executing or has not properly executed the duties of his trust or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are inequitable or in excess of those allowed by law for the duties performed or expenses incurred, or has failed to make such payments as may be necessary for the benefit of the ward or the dependents of the ward, then the Administrator may appear, by his duly authorized attorney, in the court which has appointed such fiduciary, or in any court having original, concurrent, or appellate jurisdiction over said cause, and make proper presentation of such matters. The Administrator, in his discretion, may suspend payments to any such guardian, curator, conservator, or other person who shall neglect or refuse, after reasonable notice, to render an account to the Administrator from time to time showing the application of such payments for the benefit of such incompetent or minor [beneficiary,] *beneficiary and any additional information about the beneficiary's financial circumstances required by the Administrator (unless unknown by the fiduciary),* or who shall neglect or refuse to administer the estate according to law. The Administrator may appear or intervene by his duly authorized attorney in any court as an interested party in any litigation instituted by himself or otherwise, directly affecting money paid to such fiduciary under this section.

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PART V—BOARDS AND DEPARTMENTS

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CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

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Subchapter I—Organization; General

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§ 4103. Office of the Chief Medical Director

(a) The Office of the Chief Medical Director shall consist of the [following—] *following persons, each of whom shall be qualified in the administration of health services—*

(1) The Chief Medical Director, who shall be the Chief of the Department of Medicine and Surgery and shall be directly responsible to the Administrator for the operations of the Department, and who shall be a qualified doctor of medicine, appointed by the Administrator.

(2) The Deputy Chief Medical Director, who shall be the principal assistant of the Chief Medical Director, and who shall be a qualified doctor of medicine, appointed by the Administrator upon the recommendation of the Chief Medical Director.

(3) [The] *Two* Associate Deputy Chief Medical [Director,] *Directors,* who shall be [an assistant] *assistants* to the Chief Medical Director and the Deputy Chief Medical Director, and who [shall be a qualified doctor of medicine,] *both shall be persons with specified qualifications,* appointed by the Administrator upon the recommendation of the Chief Medical Director. *Not more than one Associate Deputy Chief Medical Director may be a person who is a person with specified qualifications solely by reason of clause (ii) of the last sentence of this subsection.*

(4) Not to exceed eight Assistant Chief Medical Directors, who [shall be] *all shall be persons with specified qualifications,* appointed by the Administrator upon the recommendation of the Chief Medical Director. Not more than two Assistant Chief Medical Directors may be persons [qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicines.] *who are persons with specified qualifications solely by reason of clause (ii) of the last sentence of this subsection.* One Assistant Chief Medical Director shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service. One Assistant Chief Medical Director shall be a [qualified physician] *person with specified qualifications* trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Chief Medical Director for evaluating all research, educational, and clinical health-care programs carried out in the Department in the field of geriatrics and who shall serve as the principal advisor to the Chief Medical Director with respect to such programs.

(5) Such Medical [Directors] *Directors, all of whom shall be persons with specified qualifications,* as may be appointed by the [Administrator,] *Administrator* upon the recommendation of the Chief Medical [Director,] *Director* to suit the needs of the Department. [A Medical Director shall be either a qualified doctor of medicine or a qualified doctor of dental surgery or dental medicine.]

(6) A Director of Nursing Service, who shall be a qualified registered nurse, appointed by the [Administrator,] *Administrator upon the recommendation of the Chief Medical Director,*

and who shall be responsible to the Chief Medical Director for the operation of the Nursing Service.

(7) A Director of Pharmacy Service, a Director of Dietetic Service, a Director of Podiatric Service, and a Director of Optometric Service, *each of whom shall be licensed in the appropriate service field,* appointed by the [Administrator,] *Administrator upon the recommendation of the Chief Medical Director,* and who shall be responsible to the Chief Medical Director for the operation of their respective Services.

(8) Such directors of hospitals, domiciliary facilities, medical centers, and outpatient facilities as may be appointed by the Administrator upon the recommendation of the Chief Medical Director.

(9) Such other personnel as may be authorized by this chapter.

For the purpose of this subsection, the term "person with specified qualifications" means (i) a person meeting the requirements set forth in clause (1), (2), (3), (5), (6), (7), or (8) of subsection (a) of section 4105 of this title, or (ii) a person who meets or has met the requirements set forth in clause (4) of such subsection.

(b) Except as provided in subsection (c) of this section—

(1) any appointment under this section shall be for a period of four years, with reappointment permissible for successive like periods,

(2) any such appointment or reappointment may be extended by the Administrator for a period not in excess of three years, and

(3) any person so appointed or [reappointed] *reappointed,* or whose appointment or [reappointment,] *reappointment* is [extended] *extended,* shall be subject to removal by the Administrator for cause.

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§ 4105. Qualifications of appointees

(a) Any person to be eligible for appointment to the following positions in the Department of Medicine and Surgery must have the applicable qualifications:

(1) Physician—

hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Administrator, have completed an internship satisfactory to the Administrator, and be licensed to practice medicine, surgery, or osteopathy in a State;

(2) Dentist—

hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Administrator, and be licensed to practice dentistry in a State;

(3) Nurse—

have successfully completed a full course of nursing in a recognized school of nursing, approved by the Administrator, and be registered as a graduate nurse in a State;

(4) Director of a hospital, domiciliary, center or outpatient clinic—

have such business and administrative experience and qualifications as the Administrator shall prescribe;

(5) Podiatrist—

hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Administrator, and be licensed to practice podiatry in a State;

(6) Optometrist—

hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Administrator and be licensed to practice optometry in a State;

(7) Pharmacist—

hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy, approved by the Administrator, and be registered as a pharmacist in a State;

(8) Psychologist—

hold a doctoral degree in psychology from a college or university approved by the Administrator, have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Administrator, and be licensed or certified as a psychologist in a State, except that the Administrator [may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that such psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified; and] *may, on a case-by-case basis—*

(A) waive the requirement of licensure or certification for a psychologist for a period not to exceed 2 years on the condition that such psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified; and

(B) waive the requirements of internship and of licensure or certification for a psychologist who is to be employed to conduct research and is to have no responsibility for furnishing direct patient-care services; and

(9) Physician assistant, expanded-function dental auxiliary, certified or registered respiratory therapist, licensed physical therapist, licensed practical or vocational nurse, occupational therapist, dietitian, microbiologist, chemist, biostatistician, medical technologist, dental technologist, or other position—

have such medical, dental, scientific, or technical qualifications as the Administrator shall prescribe.

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§ 4118. Special pay for physicians and dentists

(a)(1) * * *

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(g)(1) * * *

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(2) To assist the Congress and the President in carrying out the policy stated in paragraph (1) of this subsection, the Administrator shall—

(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including between physicians and dentists employed by the Veterans' Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists;

(B) obtain measures of income from the employment or practice of physicians and dentists in the non-Veterans' Administration sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for Veterans' Administration physicians and dentists;

(C) submit a report to the President, on such date as the President may designate but not later than December 31, 1982, and *December 31, 1984, and* once every **[**two**]** *3* years thereafter, recommending appropriate amounts of special pay to carry out the policy set forth in paragraph (1) of this subsection with respect to the pay of Veterans' Administration physicians and dentists; and

(D) include in such recommendations, when considered appropriate and necessary by the Administrator, modifications of the special pay levels set forth in this section (i) whenever the Veterans' Administration is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because the incomes of non-Veterans' Administration physicians and dentists performing comparable types of duties are significantly in excess of the levels of total pay (including basic pay and special pay) of Veterans' Administration physicians and dentists, or (ii) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

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5002. Acquisition of medical facilities.
5003. Authority to construct and alter, and to acquire sites for, medical facilities.

5004. Congressional approval of certain medical facility acquisitions.
5005. Structural requirements.
5006. Construction contracts.
5007. Operational and construction plans for medical facilities.
5008. Contributions to local authorities.
5009. [Garages and parking] *Parking* facilities.
5010. Operation of medical facilities.
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5011A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency.
5012. Partial relinquishment of legislative jurisdiction.
5013. Property formerly owned by National Home for Disabled Volunteer Soldiers.
5014. Use of federally owned facilities; use of personnel.
5015. Acceptance of certain property.

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SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING DOMICILIARY, NURSING HOME, AND HOSPITAL CARE

5031. Definitions.
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5033. Authorization of appropriations.
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SUBCHAPTER IV—SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

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5053. Specialized medical resources.
5054. Exchange of medical information.
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5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974.
[5057. Reports to Congress.]

Subchapter I—Acquisition and Operation of Medical Facilities

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§ 5004. Congressional approval of certain medical facility acquisitions

(a)(1) * * *

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(b) In the event that the President or the Administrator proposes to the Congress the funding of any construction, alteration, lease, or other acquisition to which subsection (a) of this section is applicable, the Administrator shall submit to each committee, on the same day, a prospectus of the proposed medical facility. Such prospectus shall include—

(1) a detailed description of the medical facility to be constructed, altered, leased, or otherwise acquired under this subchapter, including a description of the location of such facility and, in the case of a prospectus proposing the construction of a new or replacement medical facility, a description of the consideration that was given to acquiring an existing facility by lease or [purchase;] *purchase and to the sharing of health-*

care resources with the Department of Defense under section 5011 of this title;

(2) an estimate of the cost to the United States of the construction, alteration, lease, or other acquisition of such facility (including site costs, if applicable); and

(3) an estimate of the cost to the United States of the equipment required for the operation of such facility.

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§ 5009. [Garages and parking] *Parking* facilities

[(a) The Administrator may construct, alter, operate, and maintain, on reservations of medical facilities, garages and parking facilities for the accommodation of privately owned vehicles of employees of such facilities and vehicles of visitors and other individuals having business at such facilities.

[(b)(1) The Administrator may establish and collect (or provide for the collection of) fees for the use of such garages and parking facilities at such rate or rates which the Administrator determines would be reasonable under the particular circumstances; but no fee may be charged for the accommodation of any publicly or privately owned vehicle used in connection with the transportation of a veteran to or from any medical facility for the purposes of examination or treatment or in connection with any visit to any patient in such facility. Employees using such garages shall make such reimbursement therefor as the Administrator may deem reasonable.

[(2) The Administrator may contract, by lease or otherwise, with responsible persons, firms, or corporations for the operation of such parking facilities, under such terms and conditions as the Administrator shall prescribe, and without regard to the laws concerning advertising for competitive bids.

[(c)(1) There are authorized to be appropriated such amounts as are necessary to finance in part the construction, alteration, operation, and maintenance of garages and parking facilities (other than the construction or alteration of any garage or parking facility involving the expenditure of more than $2,000,000). Amounts appropriated under the authority of this section, and all income from fees collected for the use of such garages and parking facilities, shall be administered as a revolving fund to effectuate the provisions of this section, but only to the extent provided for in appropriation Acts.

[(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States, except that such amounts thereof as the Administrator may determine to be necessary to establish and maintain operating accounts for the various garages and parking facilities may be placed in depositories selected by the Administrator.]

(a) For the purpose of this section—

(1) the term "garage" means a structure (or part of a structure) in which vehicles may be parked;

(2) the term "parking facility" includes a surface parking lot and a garage, and.

(3) the term "eligible person" means an individual to whom the Administrator is authorized to furnish medical examination or treatment.

(b) In order to accommodate the vehicles of employees of medical facilities, vehicles used to transport veterans to or from such facilities for the purpose of examination or treatment, and the vehicles of visitors and other individuals having business at such facilities, the Administrator—

(1) may construct or alter parking facilities, and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Administrator considers necessary for use as the site for any such construction or alteration;

(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility that the Administrator considers necessary for use as a parking facility; and

(3) may operate and maintain parking facilities.

(c)(1) Except as provided in paragraph (2) of this subsection, each employee, visitor, and other individual having business at a medical facility for which parking fees have been established under subsection (d) or (e) of this section shall be charged the applicable parking fee for the use of a parking facility at such medical facility.

(2) A parking fee shall not be charged under this subsection for the accommodation of any vehicle used to transport to or from a medical facility (A) a veteran or eligible person in connection with such veteran or eligible person seeking examination or treatment, or (B) a volunteer worker (as determined in accordance with regulations which the Administrator shall prescribe) in connection with such worker performing services for the benefit of veterans receiving care at a medical facility.

(3) The Administrator shall collect (or provide for the collection of) parking fees charged under this subsection.

(d)(1) For each medical facility where—

(A) a garage constructed or acquired by the Veterans' Administration at a cost exceeding $500,000 (or, in the case of acquisition by lease, $100,000 per year), is first opened for use after September 30, 1986; or

(B) a project for the alteration of a garage at a cost exceeding $500,000 is completed after September 30, 1986,

the Administrator shall prescribe a schedule of parking fees to be charged at all parking facilities used in connection with such medical facility.

(2) The parking fee schedule prescribed for a medical facility referred to in paragraph (1) of this subsection shall be designed to establish fees which the Administrator determines are reasonable under the circumstances and, at a minimum, will provide revenue sufficient to recover the costs of operating and maintaining all parking facilities at such medical facility.

(e) The Administrator may prescribe a schedule of parking fees for the parking facilities at any medical facility not referred to in subsection (d) of this section. Any such schedule shall be designed to establish fees which the Administrator determines to be reasonable under the circumstances and shall cover all parking facilities used in connection with such medical facility. The Administrator may

consider the costs of operating and maintaining such parking facilities in prescribing any such fee schedule.

(f) The Administrator may contract, by lease or otherwise, with persons, firms, or corporations for the operation of parking facilities at medical facilities under such terms and conditions as the Administrator shall prescribe and may do so without regard to laws requiring full and open competition.

(g) Subject to subsections (h) and (i) of this section, there are authorized to be appropriated such amounts as are necessary to finance (in whole or in part)—

(1) the construction, alteration, and acquisition (including site acquisition) of parking facilities at medical facilities; and

(2) the operation and maintenance of parking facilities at medical facilities.

(h)(1) Amounts appropriated pursuant to subsection (g) of this section and parking fees collected under subsection (c) of this section shall be administered as a revolving fund and shall be available without fiscal year limitation.

(2)(A) Except as provided in subparagraph (B) of this paragraph, the revolving fund shall be deposited in a checking account with the Treasurer of the United States.

(B) The Administrator may deposit in depositories selected by the Administrator such amounts as the Administrator determines necessary to establish and maintain accounts for the purposes of the operation and maintenance of parking facilities.

(3)(A) Except as provided in subparagraph (B) of this paragraph, no funds other than funds from the revolving fund may be expended for the construction, alteration, or acquisition (including site acquisition) of a garage at a medical facility after September 30, 1986.

(B) Subparagraph (A) of this paragraph does not apply to the use of funds for investigations and studies, surveys, designs, plans, working drawings, specifications, and similar actions not directly involved in the physical construction of a structure.

(i)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, acquisition (including site acquisition), operation, and maintenance of parking facilities at medical facilities and may be made only as provided for in appropriation Acts.

(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund (including any funds proposed in such bill, resolution, or amendment to be appropriated to the revolving fund) may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a parking facility or facilities at a medical facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.

(j) Nothing in this section shall preclude funds appropriated to the Veterans' Administration medical care account from being used for the operation and maintenance of parking facilities at medical facilities.

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Subchapter III—State Home Facilities for Furnishing Domiciliary, Nursing Home, and Hospital Care

§ 5031. Definitions

For the purpose of this subchapter—

(a) The veteran population of each State shall be determined on the basis of the latest figures certified by the Department of Commerce.

(b) The term "State" does not include any possession of the United States.

[(c) The term "construction" means the construction of new domiciliary or nursing home buildings, the expansion, remodeling, or alteration of existing buildings for the provision of domiciliary, nursing home, or hospital care in State homes, and the provision of initial equipment for any such buildings.]

(c) The term "construction" means—

(1) the construction of new domiciliary or nursing home buildings;

(2) the expansion of existing buildings for the provision of domiciliary or nursing home care in State homes;

(3) the remodeling or alteration of existing buildings for the provision of domiciliary, nursing home, or hospital care in State homes; and

(4) the provision of initial equipment for any such buildings.

(d) The term "cost of construction" means the amount found by the Administrator to be necessary for a construction project, including architect fees, but excluding land acquisition costs.

§ 5032. Declaration of purpose

The purpose of this subchapter is to assist the several States *(1)* to construct State home facilities (or to acquire facilities to be used as State home facilities) for furnishing domiciliary or nursing home care to veterans, [and to expand, remodel,] *(2) to expand existing buildings for furnishing domiciliary or nursing home care to veterans in State homes, and (3) to remodel* or alter existing buildings for furnishing domiciliary, nursing home, or hospital care to veterans in State homes.

§ 5033. Authorization of appropriations

(a) There is hereby authorized to be appropriated $15,000,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981 and for each of the [five] *8* succeeding fiscal years. Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for carrying out the purposes and meeting the requirements of this subchapter.

* * * * * * *

§ 5038. Priority of projects

(a) Sums available for grants under this subchapter shall be allocated among State home facilities construction projects in accord-

ance with the priority established for such projects pursuant to subsection (b) of this section.

(b) The Administrator shall prescribe regulations to establish criteria and procedures for determining the priority to be accorded to State home facilities construction projects with respect to which applications have been approved under section 5035 of this title.

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Subchapter IV—Sharing of Medical Facilities, Equipment, and Information

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§ 5053. Specialized medical resources

(a) * * *

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(e) The Administrator shall submit to the Congress not more than 60 days after the end of each fiscal year a report on the activities carried out under this section. Each report shall include (1) an appraisal on the effectiveness of the activities authorized in this section and the degree of cooperation from other sources, financial and otherwise, and (2) recommendations for the improvement or more effective administration of such activities.

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§ 5057. Reports to Congress

[The Administrator shall submit to the Congress not more than sixty days after the end of each fiscal year separate reports on the activities carried out under sections 5053 and 5054 of this subchapter, each report to include (1) an appraisal of the effectiveness of the programs authorized herein and the degree of cooperation from other sources, financial and otherwise, and (2) recommendations for the improvement or more effective administration of such programs.]

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SOCIAL SECURITY ACT

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TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

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Part C—Miscellaneous Provisions

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AGREEMENTS WITH PROVIDERS OF SERVICES

SEC. 1866. [42 U.S.C. 1395cc] (a)(1) Any provider of services (except a fund designated for purposes of section 1814(g) and section 1835(e)) shall be qualified to participate under this title and shall be eligible for payments under this title if it files with the Secretary an agreement—

(A) not to charge, except as provided in paragraph (2), any individual or any other person for items or services for which such individual is entitled to have payment made under this title (or for which he would be so entitled if such provider of services had complied with the procedural and other requirements under or pursuant to this title or for which such provider is paid pursuant to the provisions of section 1814(e)),

(B) not to charge any individual or any other person for items or services for which such individual is not entitled to have payment made under this title because payment for expenses incurred for such items or services may not be made by reason of the provisions of paragraph (1) or (9) of section 1862(a), but only if (i) such individual was without fault in incurring such expenses and (ii) the Secretary's determination that such payment may not be made for such items and services was made after the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this title,

(C) to make adequate provision for return (or other disposition, in accordance with regulations) of any moneys incorrectly collected from such individual or other person,

(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A or part B, or both, of this title) with respect to the provider,

(E) to release data with respect to patients of such provider upon request to an organization having a contract with the Secretary under part B of title XI as may be necessary (i) to allow such organization to carry out its functions under such contract, or (ii) to allow such organization to carry out similar review functions under any contract the organization may have with a private or public agency paying for health care in the same area with respect to patients who authorize release of such data for such purposes,

(F) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (c) or (d) of section 1886, to maintain an agreement with a utilization and quality control peer review organization (with an organization which has a contract with the Secretary under part B of title XI for the area in which the hospital is located) under which the organization will perform functions under that part with respect to the review of the validity of diagnostic information provided by such hospital, the completeness, adequacy, and quality of care provided, the appropriateness of admissions and discharges, and the appropriateness of care provided for which additional payments are sought under section 1886(d)(5), with respect to inpatient hospital services for which payment may be made under part A of this title (and for purposes of payment under this title, the cost of such agreement to the hospital shall be considered a cost incurred by such hospital in providing inpatient services under part A, and (i) shall be paid directly by the Secretary to such organization on behalf of such hospital in accordance with a rate per review established by the Secretary, (ii) shall be transferred from the Federal Hospital Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, (iii) shall be not less than an amount which reflects the rates per review established in fiscal year 1982 for both direct and administrative costs (adjusted for inflation), and (iv) shall not be less in the aggregate for a fiscal year than the aggregate amount expended in fiscal year 1982 for direct and administrative costs (adjusted for inflation)) of such reviews,

(G) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (b) or (d) of section 1886, not to charge any individual or any other person for inpatient hospital services for which such individual would be entitled to have payment made under part A but for a denial or reduction of payments under section 1886(f)(2),

(H) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to have all items and services (other than physicians' services as defined in regulations for purposes of section 1862(a)(14)) (i) that are furnished to an individual who is an inpatient of the hospital, and (ii) for which the individual is entitled to have payment made under this title, furnished by the hospital or otherwise under arrangements (as defined in section 1861(w)(1)) made by the hospital,

(I) in the case of a hospital, to comply with the requirements of section 1867 to the extent applicable, **[**and**]**

(J) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care under any health plan contracted for under section 1079 or 1086 of title 10, or under section 613 of title 38, United States Code, in accordance with admission practices, payment methodology, and amounts as prescribed under joint regulations issued by the Secretary and by the Secretaries of Defense and Transportation, in implementation of sections 1079 and 1086 of title 10, United States **[**Code.**]** *Code, and*

(K) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care under section 603 of title 38, United States Code, in accordance with such admission practices, and such payment methodology and amounts, as are

prescribed under joint regulations issued by the Secretary and by the Administrator of Veterans' Affairs in implementation of such section.

In the case of a hospital which has an agreement in effect with an organization described in subparagraph (F), which organization's contract with the Secretary under part B of title IX is terminated on or after October 1, 1984, the hospital shall not be determined to be out of compliance with the requirement of such subparagraph during the six month period beginning on the date of the termination of that contract.

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